The Court: It happens to be. Do you think she could bind me on the telephone on an important matter?

Mr. Marcus: Your Honor, this is the sort of conversation that naturally fits in with the duties in the office.

795 Now, I can't tell what kind of a conversation someone might have with your clerk. It might depend entirely on the conversation, but this is the ordinary kind of conversation that goes on every day between patients and others and doctors' offices, and certainly is admissible for the fact that this person did call the doctor's office, and I say whether or not the doctor was in the doctor's office did take the position that the office would not take care of that patient as long as the patient was a member of the National Hospital Association.

The Court: Well, your witness didn't say the patient was a member of the National Hospital Association.

Mr. Marcus: I will ask that question.

Q. Was the patient a member of the National Hospital Association? A. I didn't hear.

Q. Was the patient a member of the National Hospital Association? A. Yes.

Q. And was that fact referred to in the conversation you had with this woman in Dr. Anthony's office? A. Yes.

The Court: Well, now, that part that the office clerk said is stricken. Now, you can go ahead and tell the rest of it.

Mr. Marcus:

Q. What happened? Did Dr. Anthony see that patient? A. No.

The Court: How do you know she didn't?

Mr. Marcus: Well, she was the first-aid—

796 The Court: Will you wait a minute? I am not asking you. How do you know he didn't? Was the woman at home?

A. Beg pardon?

The Court: Was the woman at home?

A. She came to the first-aid station because she didn't have a telephone.

The Court: I thought there was some talk here about her home, where her address was.

Mr. Marcus: Now this call, your Honor,—
The Court: Don't interrupt me, please.

A. Yes, I gave directions for the doctor to go out to the home.

The Court: How do you know he didn't go out to her home?

A. Beg pardon?

The Court: How do you know he didn't go to her home?

A. Because I called another doctor, and she said so.

The Court: Was it something real serious that she waited there at the first-aid? Were you expecting the doctor to go to the first-aid station?

A. No, I wasn't.

The Court: You were expecting him to go to the home?

A. That is right.

The Court: But you don't know that he didn't go to the home except that the woman told you so, is that right?

A. And except for the fact that the girl at the doctor's office told me he didn't make calls and wouldn't
797 make the call unless the woman had the money in the house, and she didn't have, she said.

Mr. Marcus:

Q. Well, did you call another doctor, then? A. Yes, I did.

Q. And who was that, do you recall? A. That was in Medford, too, Dr. Burich.

Mr. Jaureguy: Dr. Who? A. Dr. Burich went out to the house.

The Court: Cross-examine.

Cross Examination

By Mr. Jaureguy:

Q. The second doctor went out, as you understand? A. Yes.

Q. Oh, yes, Fred.T. Burich (spelling) B-u-r-i-c-h. That is all.

The Court: That is all, Lady.

(Witness excused.)

Mr. Marcus: Mr. Haney.

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798 GUY T. HANEY was thereupon produced as a witness in behalf of Plaintiff and, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Haney, what is your occupation? A. At the present time?

Q. Yes. A. I am working in the woods as a bucker for the G. & A. Logging Company at Seaside, Oregon.

Q. And are you a member of a union down there? A. As a member of Local 4, District 5 of the International Woodworkers of America. That is an affiliate of CIO.

Q. And have you held an office with that union? A. Yes. For a period from 1940 until October of 1948 I was the Business Agent for the Local Union.

Q. About how many members did that union have? A. It varied from 500 to a peak of 1,000 members during the war period.

Q. And during the period you were Business Agent there would you say that most of the members were covered by prepaid medical care insurance? A. Yes, I think all of them were. I will say all of them were.

Q. During that period with what organization would you say such coverage was handled? A. They were cov-

799 ered—I wouldn't give the definite per cent, but almost all of them were covered by the Industrial and National Hospital Associations.

Q. In that position you have, did the men customarily bring their problems to your attention? A. Yes, they do.

Q. Among those problems was one the inconvenience or any inconvenience caused by doctors in that area not accepting tickets of these hospital associations? A. Yes.

Q. Was that a matter of discussion at union meetings? A. Yes, we discussed it at many meetings.

Q. Could you tell me what part, if any, the union played in seeing to it that the medical bills of its members were paid where the tickets were refused? A. Outside of two operations there, the two larger ones, the Crown-Zellerbach and the G. & A. Logging Company, outside of those, most of the men that had doctors' bills, from sickness or injury off of the job, they either brought their bills and their

hospital ticket in to me to collect for them or they sent it direct into the office here in Portland of the hospital associations.

That was quite a problem. At that time the doctors were refusing to itemize their statements.

Mr. Jaureguy: I move that be stricken as hear-
800 say.

The Court: It may stand.

Mr. Marcus: I didn't get your Honor's ruling.

The Court: It may stand. Three words, "It may stand."

A. Bills would be sent in and would be returned to me or to the individual. Then he would go and try to get the doctor to itemize the statement.

Mr. Jaureguy: The same objection.

The Court: The same ruling.

Mr. Marcus: I have a document in my hand which I do not want to have marked for identification because it happens to be his own bill which has not been paid.

Q. I want to ask you whether this document I have in my hand is a statement you received from a doctor you went to personally for treatment, who did not accept the hospital ticket? A. Yes.

Q. Would you read what that statement states? A. It is dated September 30, 1949, and there is a little typewritten note at the top "For Professional Services, $6." And that is all there is on it, addressed to me on the envelope.

Q. Mr. Haney, are you acquainted with Dr. Hagmeier? A. Yes, very well.

Q. In 1943 did you have occasion to discuss with him this matter of the doctors not accepting tickets? A. I did.

Q. What occurred at that time? What took place?

801 Mr. Jaureguy: I object to that as hearsay.

The Court: Is he a defendant?

Mr. Jaureguy: No.

Mr. Marcus: Well, your Honor, he is a member of the State Council. He was a member of the Bureau of Medical Economics.

The Court: All right.

Mr. Jaureguy: At the time this took place?

Mr. Marcus: At some time during this conspiracy which we allege.

Mr. Jaureguy: I renew the objection as hearsay.

The Court: When was it? Does anybody know? When was it?

Mr. Marcus: I don't know, your Honor.

The Court: Does he know?

Mr. Marcus: What?

The Court: Does he know when he had the talk with him?

Mr. Marcus: Yes.

The Court: When?

A. I couldn't give the exact date, but it was sometime in the spring of 1943.

The Court: All right. Go ahead.

Mr. Jaureguy: I renew my objection.

The Court: Overruled.

A. I met Dr. Hagmeier on the street in Seaside, at the corner of Broadway and Holladay, and we had had quite a bit of trouble, both with the doctors and the hospitals refusing to take tickets, requisitions or hospital
802 tickets, and I asked Dr. Hagmeier, I says, "What is this boycott that you doctors have against the two private hospital associations?"

Knowing me will, he says, "That is not a boycott." He says, "We have organized and we are going on strike, just like you fellows done to get more money."

He went ahead to tell me that they figured that was the proper time to do it because of the doctors—most of the doctors were overseas in the service and the doctors that were here were overworked, had more than they could do, and they figured if there was a profit—he said if there was a profit in that prepaid medical care, then the doctors wanted it all themselves and they didn't want to see any disinterested party getting it, and that is the conversation that I had with Dr. Hagmeier.

He was practicing medicine at that time. He is retired now, but still lives in Seaside.

Mr. Marcus:

Q. Did the doctor make any specific references to hospital associations? A. Well, you take Dr. Hagmeier, he didn't.

Q. Did you have occasion to take up with Dr. Russell Parcher— A. Yes.

Q. —this matter of not accepting tickets? A. Yes, sir; I did.

803 Q. About when did that occur? Just the approximate year. A. That was—I don't remember exactly,

but I believe it was the first year after the war. That must have been '45 or '46.

The Court: After what war?

A. After World War II.

The Court: It is still going on.

Mr. Marcus:

Q. What was the occasion for your having this conversation?

Mr. Jaureguy: I object to that.

A. Well, we had—

The Court: Answer.

A. We had a member down there, a member of our local union, by the name of Pearson, and he had to go to the doctor for some ailment—I don't know just what it was. Anyway, his bill was quite a sizable bill.

The National Hospital Association made out a check to Dr. Parcher, and the check was 50 cents more than the actual bill from the doctor, because he had made a mistake in addition, or his secretary had, and the hospital association had corrected it and made the check out for the 50 cents extra.

Dr. Parcher sent the check back to the National Hospital Association and said he could not accept it, so the check was sent to me. I asked that it be sent to me as representative of the men there that was covered, and I took
804 it over to Dr. Parcher and asked him if he would take it.

Mr. Jaureguy: I object to that as hearsay.

The Court: Continue.

A. And he said, "No," he says, "I can't take that." He called me back in his inner room—

Mr. Jaureguy: My objection goes to all of this as hearsay.

The Court: It is so understood.

A. He said, "My union"—talking to me as a union man, he said "My union has told me that I can't take those checks," and he said, "I can't take them, because, that is

it," so he then gave the check back to me and it was sent back to the National Hospital Association.

Mr. Marcus: That is all.

Cross Examination

By Mr. Jaureguy:

Q. You were Business Agent down there, as I understand, from 1940 to 1948? A. That is correct.

Q. All the men at that time, from the beginning to the refuse to take tickets? A. That is right.

Q. You are referring now to Astoria as well as Seaside? A. There was one doctor that took a few tickets up there. That was Dr. A. D. Allen, deceased. He is not with us any more. But he passed that off as his girl had made a mistake and taken them in when she should not have.

The Court: Didn't Dr. VanDusen take tickets from his own company?

A. As near as I know, I don't know whether he took them or not. I never had occasion to find out.

Mr. Jaureguy:

Q. In 1940 all doctors in Astoria were refusing to take tickets of the Industrial and National hospital associations? A. That is not right.

Q. You said you were there from 1940 to 1948. A. 1943 is when OPS first came into the logging field.

Q. I want to get this straight. I understood you to
806 say that during all the time you were Business Agent, from 1940 to 1948, all the doctors in Clatsop County refused to take tickets except this one exception?

A. I didn't say between 1940 and 1948 that they refused to take them.

Q. Well, during what period of time did they refuse to take tickets? A. From the spring, about the spring of 1943, and they are still refusing to take them.

Q. So, from the time you became Business Agent until the spring or 1943 they took tickets? A. That is right.

Q. From the spring of 1943 to the present time they refuse to take tickets? A. They refuse.

Q. Are you sure that was 1943? A. Yes, I am positive it was 1943.

Q. The spring of 1943? You are positive it was the spring of 1943, is that right? A. Yes, I am certain it was in the spring of 1943.

Q. That they refused to take tickets? A. Yes.

Q. Then you talked to Dr. Hagmeier at Seaside? A. Yes.

807 Q. How many doctors are there in Seaside, do you remember? A. At that time there was four.

Q. Four? A. Yes.

Q. Were all four of them on strike, then? A. Yes.

Q. In this bill you got, or in connection with it, did you ask the doctor for an itemized statement? A. Well, I have not been out there to ask him for it yet. I told the girl I wanted an itemized statement. The doctor was busy. That is what I got.

Q. Do you know of any case where a man has actually asked for an itemized statement? A. Yes.

Q. And the doctor has refused to give it? A. They don't refuse, no. If I might explain that, the conversation I had—

Q. You say they don't refuse. A. Here is what they do. They will send out a bill like this. If an individual goes back there by himself the doctor will tell him, "No, we don't have to itemize these statements. That is all we put out."

Q. Where did you learn that? A. When?

Q. Where did you learn that, what you have just told us? A. Through my experience; through my ex-

808 perience with doctors in Seaside and the membership down there of the Local Union.

Q. You just told me of an instance where you went to a doctor and asked for an itemized statement and he said he did not have to give you an itemized statement, or would not give you one. A. I didn't say that. I started to explain to you.

Q. All right. Let me ask you this, then: Have you ever gone to a doctor—

Mr. Marcus: Why not let him continue his explanation? He is answering the question.

Mr. Jaureguy: Why not let me conduct this cross examination in my own crude way?

Q. I want you to tell us whether you have ever gone to a doctor and asked for an itemized statement and the doctor has refused to give it to you? A. I will answer that in this way—

Q. Answer Yes or No, first.

Mr. Marcus: Better ask him whether that question can be answered Yes or No.

Mr. Jaureguy: I am asking the question, a question which I think is proper. He and I are getting along all right.

A. All right. I can't answer that question Yes or No because it depends on the circumstances and I would like to explain the circumstances.

Q. The question is whether you have ever gone to a doctor in Astoria and asked him for an itemized
809 statement and he has refused to give it to you? You say you can't answer that Yes or No?

A. It depends on the circumstances.

Q. All right. Then tell the circumstances where you have gone to doctors—I am not asking you to tell what somebody else did and told you about, but where you have gone to doctors— A. I have not went to the doctors and asked them for itemized statements. I sent the fellows to go and get their own itemized statements. That is what I wanted to explain.

Q. That explanation is sufficient. You have, therefore, never gone to a doctor in Clatsop County and asked for an itemized statement? A. I talked to Dr. Vincent about itemized statements.

Q. Have you ever gone to a doctor in Clatsop County and asked for an itemized statement? A. Not myself, no; not for myself. I have asked for them for other members, but not my own.

Q. You have gone to doctors and asked for itemized statements for other men? A. I asked Dr. Vincent.

Q. Where is he, Seaside? A. Seaside.

Q. Did he refuse to give it to you? A. No, not after I told him, the member, to go back there and tell him if he didn't give it to him, if he didn't give him an itemized statement, he would wait a long time for his money.

810 Then he called the fellow back when he started to walk out the door and he said he would give him an itemized statement.

Q. Are you talking about your conversation with Dr. Vincent or somebody else's conversation with him? A. The man was right over there, got the itemized statement, after he told him that, then right back to me, and gave me the statement and I sent it in to the National Hospital Association and got the check back for it.

Q. All you know about it, aside from what you have told us here of your talk with Dr. Vincent, all you know about it is what somebody else told you? A. All I know is through actual experience that I had.

Q. Talking to your men? A. And doctors.

Q. But what you have been telling us now is where it came back to you, not any talk with any doctor when you have asked for an itemized statement, where he has refused to give it? A. Not when they know the union is behind that man; I will put it that way. If it is an individual, they would refuse, because he has got nobody to support him.

Q. At no time have you ever asked a doctor in Clatsop County for an itemized statement and he has refused to give it to you? A. I will answer that just the way I did. I will say No, if there is an organization behind the man.

Q. At any time have you ever asked a doctor for

811 an itemized statement and he has refused to give it?

A. There has been plenty of doctors that have been asked for itemized statements that did not give them.

Q. At any time have you ever asked a doctor in Clatsop County for an itemized statement and he has refused to give it to you? A. I answered that question twice.

Mr. Jaureguy: I wonder if I could get the Court, please, to request the witness to answer that question.

The Court: I take it that he has never had that experience himself. That is the way I get it.

A. I would have it in two or three days after I get this slip back down there. Too bad I didn't do it before I come up here.

Mr. Jaureguy:

Q. You told about a conversation you had with Dr. Parcher, Russell W. Parcher, at Seaside. Do you recall that testimony? A. Yes.

Q. Then, after you had that conversation with him, you immediately called up Mr. Bechtold of the National Hospital Association, did you not? A. No, I didn't call Mr. Bechtold.

Q. Did you ever talk to Mr. Bechtold about the Parcher case? A. Several times.

Mr. Marcus: Objected to on the ground of irrelevance, your Honor.

The Court: Overruled.

812 Mr. Jaureguy:

Q. This conversation you had with Dr. Parcher, you said, was in the spring of 1947? A. I think it was 1946. It was the spring after the war. I won't swear to that, but I think that is when it was, 1946.

Q. Wasn't it in March, 1947? A. It could have been.

Q. Then you called Mr. Bechtold, then, did you? Or you say you didn't call him, didn't call Bechtold then? A. No, I think I wrote him a letter.

Q. Are you sure you did not call Mr. Bechtold long distance, after you talked to Dr. Parcher? A. Well, I don't know. I wouldn't say I did or did not, because I made an awful lot of phone calls to both hospital companies and to other companies, too.

Q. Didn't you tell him then that the check for $52.50 had been sent to Dr. Parcher and he refused to take it? A. Well, I know I told him that in a letter that I wrote to him. I know that.

Q. Didn't you call him by long-distance telephone to tell him that? A. Well, if I did, I don't remember.

Q. Then did you ask— A. I don't know as it makes any difference whether it is a telephone call or letter. I admit I wrote it in a letter.

Q. Did you then ask Mr. Bechtold what to do about
813 it? A. I told him to send the check back to me and I would take it to Dr. Parcher.

Q. Did you tell him to do that, or did he say that is what he would do? A. I asked him to send me the check.

Q. Did you and Mr. Bechtold discuss what attorney was to be chosen? A. No.

Q. Did you know who paid the attorney's fees for the attorney?

Mr. Marcus: What attorney do you refer to?

Mr. Jaureguy:

Q. Was it the union or was it Mr. Bechtold?

Mr. Marcus: We seem to have skipped the fact that he told Mr. Bechtold and there was some sort of a lawsuit. I think you should connect the question up.

Mr. Jaureguy: I wonder if you could give the exact wording you would like, so I get it right.

Mr. Marcus: No, but I think it becomes meaningless otherwise.

814 Mr. Jaureguy:

Q. There was an attorney there employed by Mr. Bechtold or by the union in that case, wasn't there? A. Yes, there was a young attorney there.

Q. I am sorry. I didn't hear you. A. I say there was an attorney there, sure.

Q. Do you know who he was employed by? A. No, I don't.

Q. He wasn't employed by the union? A. He wasn't employed by the union.

Q. Do you know whether he was employed by Mr. Bechtold? A. I don't know. He may have been employed by the defendant. I don't know.

Q. Do you know who paid him? A. No, I don't.

Q. Do you know whether he was paid? A. I don't even know what he was paid.

Q. I say, whether he was paid. You think that Dr. Van Dusen in Astoria refused to take tickets? A. I said I didn't know. I had no experience with Dr. Van Dusen whatsoever in hospital tickets.

Q. Then you have to modify your statement that no doctors have taken tickets since the spring of 1943 by saying that there is at least one doctor there that you don't know about?

Mr. Marcus: He has already testified that there was another doctor that took tickets occasionally, too.

815 Mr. Jaureguy:

Q. How about the Doctors Fowler? Did they take tickets? A. Not to my knowledge.

Q. Do you know whether they did or not? You don't know whether they did or not, then? A. I know he didn't take them at first. He might be taking them now.

Q. Well, there are two doctors Fowler. Does that apply to both of them? A. I don't know. I had no experience with Dr. Fowler, because he was in the service all during the war.

Q. Both of them? What about Dr. Spalding? Do you know whether he took tickets or not during this time? A. Everybody from at least our organization that went to him, he refused to take them.

Q. Do you know about how many times that occurred? A. Well, it occurs quite a bit, because there is quite a few men with eye trouble, or ear, nose or throat, and he is a specialist in that field.

Q. Now, did you ever have any trouble collecting these bills from the National? A. No, not if statements were itemized, there was no trouble from either Association.

Mr. Jaureguy: All right, That will be all.

(Witness Excused)

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816 Olaf F. Beyer was thereupon produced as a witness in behalf of the Plaintiff and, having been duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Galassi:

Q. Mr. Beyer, will you state your occupation, please. A. Police officer in Astoria.

Q. Do you live in Astoria? A. Yes.

Q. How long have you been with the Astoria Police Department? A. Since 1944.

Q. What did you do before you joined the Police Department? A. I worked in the shipyards for awhile before that.

Q. Was that just during the war period? A. Yes.

Q. What did you do before then? A. Well, I done several things. Right before that I was driving truck for the same outfit that owned the shipyards.

Q. Have you ever been in the logging industry? A. Yes, I was in the logging industry up until 1937.

Q. Have you ever been covered by prepaid medical care protection? A. Yes.

Q. When was that? A. Well, I have been covered off and on since 1931.

817 Q. With what organizations? Give us the names of the hospital associations. A. Well, I was covered by the National, Industrial and OPS.

Q. Are the members of the Astoria Police Department covered by this type of protection? A. Some of them.

Q. Have you been covered since you joined the Police Department? A. Yes.

Q. With what organization? A. Well, I was covered by Industrial for—I don't know; two or three years; and by OPS for the last year and a few months.

Q. Is that a group contract covering the Police Department or what? A. The contract covers all city employees that want to belong to it.

Q. Was that true under the industrial as well as the present contract? A. Yes, although I think there was some that were not accepted.

Q. During the period that you were covered by the Industrial did the city employees have any difficulties in connection with that coverage?

Mr. Jaureguy: I object to that as calling for a conclusion.

The Court: That you knew about yourself; not what they told you.

818 A. No.

Mr. Galassi:

Q. Did you yourself have any trouble? A. The only trouble we had was that some of the doctors wouldn't accept the tickets.

Q. Did you have occasion to go to a doctor while under this coverage? A. Under which coverage?

Q. Under the Industrial coverage? A. Yes.

Q. What happened? A. Nothing. I just went to the doctor.

Q. Did you pay for the treatment yourself? A. Some of them.

Q. What was the procedure of letting the doctor know whether or not you had coverage?

Mr. Jaureguy: He hasn't said there was any procedure yet. I beg your pardon. I shouldn't interrupt. I will withdraw that.

A. They generally asked us if we were covered by a hospital association.

Mr. Galassi:

Q. Did you say what hospital association? A. Yes, they asked us what hospital association we was covered by.

Q. What happened after you told them? A. Well, when we was covered by Industrial or—

819 Q. Yes. A. Well, they just didn't say anything at all.

Q. Did you get a bill? A. Yes.

Q. Was it made out to you personally? A. Personally.

Q. What did you do with the bill? A. Well, I sent some of them—some of them were sent in and some of them I took up to Dr. Van Dusen and collected from him.

Q. When did the city employees change from Industrial to Oregon Physicians' Service? A. A little over a year ago.

Q. What was the occasion for that change? A. So that we wouldn't have so much red tape with the tickets, mostly. That was my part of it, anyway.

Mr. Galassi: That is all.

Cross-Examination

By Mr. Jaureguy:

Q. In other words, did they vote among the employees as to whether they would have the change? A. They did among the Police Department.

Q. And that was the reason for your voting as you did? I mean, that is the reason you voted to change from Industrial to OPS, was so you would not have so much red tape? A. That is right.

820 Q. That is it. And the red tape consisted in either taking the bill down to Dr. Van Dusen or sending it into the Industrial offices in Portland? A. Yes.

Q. Now, this Employees Association coverage that you had with Industrial, did that cover anybody besides employees? A. I don't know.

Q. That is, if an employee wanted his children to be covered, would they cover those too, do you know? A. I don't know about that. I didn't ask about that.

Mr. Jaureguy: That is all. Thank you.

Redirect Examination

By Mr. Galassi:

Q. Was there a discussion at this meeting of employees before they voted to change?

Mr. Jaureguy: He didn't say there was a meeting of the employees. He said the police department voted.

Mr. Galassi:

Q. Was there a meeting of the employees to decide whether to change? A. I don't believe we had a special meeting. The officers all get together when they change shifts and talk it over. I don't know whether we had a meeting or not.

Q. Was a vote taken among the officers? A. I think they had a sheet up there, and we each signed our
821 name to it if we wanted to change. I think that is the way is was.

Q. Was this issue ever discussed about red tape and the doctors not taking tickets? A. Yes, many times.

Mr. Galassi: That is all.

Mr. Jaureguy: That is all.

(Witness Excused)

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822 George D. Higginbotham was thereupon produced as a witness in behalf of the Plaintiff and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Higginbotham, are you connected with the Pacific Logging Company? A. I am.

Q. Where is that located? A. Our business office is in Astoria.

Q. About how long has that business been in operation at that place? A. Since August of '47.

Q. Do you ship your products outside of the state? A. Our product is actually sold in the state. Probably the ultimate use is outside the state, by the buyers.

Q. What is it that you produce? A. Logs of various species.

Q. Do you get supplies from out of the state, some of your supplies? A. I don't recall any source of supply procured out of the state.

Q. Have your employees been covered by prepaid medical care insurance? A. Yes.

823 Q. Now what was that coverage or with whom was that coverage in 1947? A. With the Prudential Hospital Association.

Q. And with whom is that coverage at present? A. Oregon Physicians' Service.

Q. What was the occasion for the change? A. We had many complaints from our employees that doctors would not accept the tickets which were issued.

Mr. Marcus: That is all.

Cross-Examination

By Mr. Jaureguy:

Q. Did the doctors ever refuse to give an itemized statement, do you know? A. I can't answer that. I don't know.

Q. All you know is that some of your employees complained that the doctors would not take tickets? A. My knowledge is just the relationship between the employees and ourselves, their relations to us.

Q. Has the OPS service been satisfactory, so far as you know? A. Yes.

Mr. Jaureguy: That will be all.

(Witness Excused)

(Recess until 2:00 o'clock P. M.)

824 Afternoon Session

The Court: Put a witness on the stand.

Mr. Cohen: Dr. Holzman.

Jerome L. Holzman was thereupon produced as a witness in behalf of Plaintiff and, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Cohen:

Q. Dr. Holzman, when were you admitted to medical practice? A. I graduated from medical school in 1921 and

was admitted in practice in the State of Oregon in 1924.

Q. Are you admitted in any other states to practice medicine? A. Just the states by reciprocity with Oregon.

Q. Of what medical societies are you a member? A. The City and County Medical Society, and the Oregon State Medical Society, and American Medical Association, and a Fellow of the American College of Surgeons.

Q. Are you connected with the fraternal organization known as the Eagles? A. Yes.

Q. In what capacity? A. The Medical Director.

Q. And how long have you acted as Medical Director for the Eagles? A. Approximately five years.

825 Q. Calling your attention, Doctor, to the year 1948, were you notified to appear at a meeting of Multnomah County Medical Society? A. I was called before a committee of that Society, yes.

Mr. Cohen: I would like this marked for identification.

(Letter dated February 5, 1948, by the Grievance Committee of the Multnomah County Medical Society, to Dr. Jerome L. Holzman, so produced, was thereupon marked for identification Plaintiff's Exhibit No. 1894.)

Mr. Cohen:

Q. That document, Doctor, is marked for identification 1894, and I will ask you if that is the notification you received? A. Yes.

Mr. Cohen: May I have it, please. Your Honor, I would like to offer this document in evidence.

The Court: What is it about, just calling him to a meeting?

Mr. Cohen: It is calling him to a meeting of the Grievance Committee.

The Court: Admitted on the same terms.

Mr. Jaureguy: I would like to say that I don't agree with his summary of that document.

The Court: Bring it to me.

Mr. Jaureguy: I don't agree in that it didn't notify him to appear or call him to appear.

826 The Court: It may be filed.

(Plaintiff's Exhibit No. 1894, previously marked for identification, was thereupon received in evidence.)

The Court: Do you live here in Portland?

A. Yes, sir.

The Court: And are you the National Director for the Eagles?

A. No. I am just the local Medical Director.

The Court: Oh, just Oregon or part of Oregon?

A. No. Just for the City of Portland, Portland Aerie No. 4, as it is called.

Mr. Cohen:

Q. Dr. Holzman, pursuant to this notice did you appear before this Grievance Committee? A. Yes.

Q. When and where was this meeting held? A. I don't know the exact day. It was approximately a week or ten days after I received this letter.

Q. Do you recall the names of the persons who were present at this hearing? A. As near as I can remember there was the three members of the committee, one of whom came in quite late.

Q. What was his name? A. Dr. Foster.

Mr. Jaureguy: Foster, did you say? A. Wilmot
827 Foster.

Mr. Cohen:

Q. Will you give the names of the doctors who were there or those who were in attendance at this meeting? A. There were the three members of the committee. There was another doctor, a Dr. Alexander Levy, and the secretary of the Medical Society.

Q. What was his name? A. Clyde Foley. An attorney for the Medical Society. I believe it was Dr. Coughlin.

Q. Yes. Mr. Coughlin? A. Yes, Mr. Coughlin. Excuse me. There was also an assistant secretary or assistant attorney, I don't recall his name.

Q. Dr. Holzman, will you tell the Court what occurred at this meeting? A. I was asked to explain how the medical setup of the Fraternal Order of the Eagles did not fit into the so-called ethical principles of the American Medical Association.

Q. Well, Doctor, did the matters discussed at this meeting include contract practice? A. Yes. I was asked to explain how the Fraternal Order of Eagles' medical setup did not apply to contract practice.

The Court: You were asked to distinguish it from contract practice, is that the point?

A. I was, as I understand, asked why in my mind it was not contract practice, which I attempted to do.

Mr. Cohen:

Q. Did the matters discussed at this meeting also
828 include free choice of physicians? A. Yes. That question was brought up and I tried to explain why I felt that that relationship was not completely broken down.

Q. Well, did the matters discussed also include price cutting among physicians? A. Not per se as price cutting. I believe I volunteered the information that this type of practice meant the regular recognized schedule of fees that were paid for this type of practice, this low-income type of group practice.

The Court: Now, in that connection is it your understanding that anybody sets a schedule of fees for the profession throughout the entire state or throughout any large area like Multnomah County?

A. Well, the Fraternal Order of the Eagles set no schedule.

The Court: No. I mean the doctors.

A. Well, there are certain fee schedules of medical associations like the Oregon Physicians' Service and the Industrial Hospital Association.

The Court: I understand.

A. They have fee schedules.

The Court: Yes, I know. I am not talking about that. Do you understand that any medical societies, or the American Medical Association itself, sets a schedule of fees to be followed in the profession?

A. I don't think the fees, these that I mentioned,
829 necessarily set the actual fee. I think the—

The Court: Now, let's start all over again. Let's forget this practice, this contract practice. You are a young fellow just coming out of medical school and starting to practice medicine. Is there any schedule of fees set for you by anybody?

A. No. There are certain recognized features, certain recognized fees that we charge according to what we think other doctors are charging.

The Court: I know. But in my business and Mr. Jaureguy's and Commander Coughlin's we have minimum fee schedules that are set by our Bar Association. Is there any such thing done in the medical profession by the medical societies?

A. I am not aware if there is.

Mr. Jaureguy: May I correct your Honor?

The Court: Yes.

Mr. Jaureguy: Due to the fact that the Antitrust Department is here, that that now is called "advisory minimum fee schedules."

The Court: I know.

Mr. Cohen:

Q. Dr. Holzman, was any mention made of the doctors panel at this meeting? A. Yes. It so happened that the Fraternal Order of Eagles has a pamphlet, a folder, which it gives its new members, and on that pamphlet were the names of the men who usually were called to take care of the various calls necessary.

Q. Dr. Holzman, was there a reporter who transcribed the minutes of this meeting present at the time? A.
830 I can't say that the complete transcript was made, but I believe Mr. Coughlin took notes at that meeting.

Mr. Cohen: Your Honor, if those notes were transscribed into substance I would like to ask counsel to produce them.

The Court: They will produce them if they have them, I am sure, if they have the notes of that meeting.

Mr. Jaureguy: I don't, but maybe the secretary has them.

Mr. Coughlin: There aren't any, your Honor, but we will make a search for them.

Mr. Cohen:

Q. Dr. Holzman, at the conclusion of this hearing were you advised of any action the committee intended to take as a result of statements? A. I was advised that this meeting was solely to ascertain the facts and that this committee would make a recommendation to the Disciplinary Committee or another committee, which would take action against me if they so decided action was warranted.

Q. Dr. Holzman, I show you a document marked Exhibit 1253 and ask you if you can identify it. A. Yes. This is

one of the folders which I just spoke about that was used in the Fraternal Order of Eagles to give to their members.

Q. And was this folder or booklet, as you termed it, in general use by its members prior to the time that you were called to that hearing? A. Yes.

831 Q. Doctor, I show you another folder marked Exhibit 1254 and ask you if you can identify that. A. Yes.

Q. Now, is that Eagle booklet now in general use by its members? A. Yes. This is the one we are using at the present time.

Q. Is there any difference between the two of them? A. Essentially they are the same. There may be a few words here and there corrected, or something of that sort, but essentially they are the same with the exception that the names of some of the physicians who did our work were eliminated, and my name only appears on the front cover.

Q. Will you tell the Court why it was this change was made? A. Well, that was a voluntary change made by myself to in the measure correct any implication that we were running a panel medical service by using the names of the doctors that were helping us.

Q. Dr. Holzman, when treating an Eagle member as a patient, are you required to submit a report to the Eagles Lodge? A. We submit a report at the end of each month containing the names and the number of visits only that the members made, nothing as far as the medical side of the visit was concerned.

Q. Where do these reports go? A. Those are mailed each month to the secretary of the lodge.

832 Q. They cover the members of the Eagles who have come to you for treatment? A. Treated by the Aerie physicians.

Q. Do you charge the Eagle patient for preparing this report? A. No. There is no charge for it. That is a required report of the Aerie physician.

Mr. Cohen: Your witness.

The Court: How many members are covered by what we have been talking about?

A. At the present time approximately six thousand. The lodge has a membership of approximately eleven thousand, but only the paid-up members are covered.

The Court: Those are male adults?

A. Yes.

Cross-Examination

By Mr. Jaureguy:

Q. I notice in this pamphlet, Doctor, that there are certain charges that the doctor makes to the member for certain services, and among them a charge of $1 in case the member wants you to make out a report for him. I suppose that was on account of the extra work involved if you made a report for a member, and insurance company, or something of that sort? A. That is right. To the lodge, though, there is no charge. We have to do that gratis to the lodge itself.

Q. But if you have to make a report to some insurance organization or prepaid medical care plan so they
833 can get reimbursement you charge $1 for that? A. Yes.

Q. Do you make out many of those reports? A. Oh, a few, yes.

Q. Now, wasn't this meeting more of a friendly discussion about the Eagles Lodge than anything else? A. As I understand, it was a meeting to ascertain the facts alone.

Q. Yes. A. And this committee was taking no action whatsoever at that meeting. All they wanted to know was the facts and that I would be informed at a later date if any actual action was taken.

Q. And you felt as a result of your discussion there that you should take off the names of the panel members that you had on this pamphlet? A. Yes.

Q. That was your own voluntary action? A. That is right.

Q. They didn't require you to do anything? A. No, nothing.

Q. And were you ever notified of anything further about it? A. I received no notification of any sort since that meeting.

Q. That meeting was in February, 1948? A. Yes.
834 Q. You said it was a week or so after the letter.

A. That is right, shortly after. I don't know the exact date.

Q. And after that discussion you had with these members of the Medical Society you heard nothing more from them? A. I received no further official notification.

Q. And the only thing you did as a result of your discussion was your voluntary action of taking off these panel members from the pamphlet? A. Well, we also, the Fra-

ternal Order of Eagles appointed a committee to confer with the Medical Society on changing some of the aspects of our medical service to conform with what the medical ethical principles provided. This committee was appointed and the Medical Society was notified, but nothing has ever been done about it.

Q. That was voluntary on the part of the Eagles, was it; appointing a committee was voluntary on the part of the Eagles? I mean, you weren't asked to appoint it by anybody, as far as you know, I mean? A. I can't answer that Yes or No. That evolved from a discussion of whether I personally felt that the medical, that the Fraternal Order of Eagles, could bring their medical plan under a plan similar to the Oregon Physicians' Service.

Q. Oh, I see. A. Which I said I thought that possibly could be arranged, with proper negotiations.

835 Q. Did that suggestion come from you to the Eagles? A. I believe that came from one of the members of the committee. Which one I can't say.

Q. And about how long ago was it they notified the Medical Society they would like to meet with the Medical Society? A. I can't give you the exact date, but the understanding at that meeting was that I was to try to arrange something within a month and, as I recall, that notification was within that month period.

Q. Notification from the committee of the Eagles to the Medical Society? A. That is right.

Q. And you have continued as the Medical Director for this area for the Eagles? A. Yes.

Q. And you have been a member of the Medical Society how long? A. Well, I can't say exactly, but I assume around 1924 when I started practicing medicine. I was admitted shortly after that.

Q. I notice you, like some of the other old-timers, refer to the Society as the City and County Medical Society. The official name is Multnomah County Medical Society. A. That is right.

Q. Oh, do you ever have occasion to treat members of the Industrial Hospital Association or the National

836 Hospital Association? A. Yes, I have on occasion.

Q. And OPS—are you a member of the OPS? A. Yes, sir, I am a regular member of the Oregon Physicians' Service.

Q. And you treat, of course, the members of OPS? A. Yes.

Mr. Jaureguy: That is all.

Redirect Examination

By Mr. Cohen:

Q. One question, Doctor. You testified there was a committee appointed by the Eagles. Do you recall the names of the committee members? A. Well, I can't recall all of their names. I possibly could mention some of them. There was a committee composed of about five members, as I recall.

Q. Do you recall any of the names, any of the committee members? A. Yes. I think Gerald Mason was one, and—I'd rather not commit myself to actual names because I am not entirely clear exactly who was a member of that committee.

Q. Do you recall whether Judge Lonergan was on this committee? A. Yes, I believe Judge Lonergan was chairman of this committee, yes.

837 Q. And this all happened in what year? A. 1948, I believe.

Recross-Examination

By Mr. Jaureguy:

Q. Doctor Wilmot C. Foster you say was there. Was he chairman of the group or what? A. No; I think Dr. John Adams was chairman.

Q. Dr. Foster, he was— A. He was a member of the committee.

Q. And he has been practicing medicine here about the same length of time you have, you think? A. Just about.

Q. More or less. He does the medical work for the gas company and affiliated companies, doesn't he? A. I believe so, yes.

Q. That is under agreement with the gas company to take care of injured workmen? A. I don't know just what the provisions of the setup is.

Q. And, Dr. Foster, as I recall, is also the chairman of the State Board of Medical Examiners, is that correct? A. I believe so. I can't say exactly. He is a member of the Board.

Q. Didn't he formerly—I may be mistaken on that—but didn't she formerly do railroad medical work? A. I think so, for either the Northern Pacific or the Spokane,

838 & Seattle. Which one, I am not sure. It might have been both.

Q. And Dr. Newcastle is another member of the Board of Medical Examiners, isn't he? A. Yes.

Q. And he has been engaged in doing railroad contract practice, hasn't he? A. Yes.

Q. And those, the members of the Medical Examining Board, State Medical Examining Board, as I recall, they are appointed by the Governor on recommendation of the State Medical Society; do you know that? A. I think so, yes.

Mr. Jaureguy: All right. That is all.

(Witness Excused)

Mr. Marcus: Mr. Nutting.

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839 WALTER L. NUTTING was thereupon produced as a witness on behalf of Plaintiff and, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Nutting, are you connected with a fraternal organization known as the Eagles? A. I am.

Q. In what capacity? A. Executive Secretary.

Q. Is that with respect to the local organization or the state organization? A. Portland Aerie No. 4, which would be within the City of Portland.

Q. How long have you held that position? A. Since the 24th of May of this year.

Q. Have you held other offices with that fraternal organization? A. Yes, various other offices over a period of a number of years. I became a member in 1930 and have sat in numerous chairs and on numerous committees over that period of time.

Q. Are you a member of the Officers Committee of the local organization? A. Yes, sir.

Q. Could you tell us in a general way the functions and duties of that committee? A. We have two meet-
840 ings other than our regular meeting which are open to the membership, one of which is confined to the business pertaining to the Aerie home and all the properties of the organization, and the other meeting would be the Officers Meeting at which all the items on the agenda for the coming meeting are discussed and all items per-

taining to the business administration of the Aerie. I am likewise secretary of both of these meetings and record the results and so on, preparatory to going to our regular meeting on the Aerie floor.

Q. Has your work with the organization brought you into close touch with the medical aspect of the fraternal organization's activities? A. Definitely, particularly so in the secretary's office, which, at the present time, handles all the calls, everything pertaining to the service to members which goes through my office, or any member of the organization or officer attending any of these meetings who asks to be informed of any discussion that took place at those meetings.

Q. In the course of your connection with the fraternal organization, have you attended state conventions? A. Yes, over the period of my membership in the organization I believe I have attended fourteen state conventions over a period of years.

Q. Have you visited other Aeries in the State of Oregon? A. Yes. That is quite numerous in our fraternal work. In fact, I also hold an appointment from the Grand
841 Aerie as supervisor of one of the small Aeries, and I make it a point to go out and visit that organization.

Q. In the course of your connection with the Eagles, have there been brought to your attention complaints with respect to getting doctors to cooperate with the Eagles? A. That is a matter that was under discussion numerous times over a period of years, not only locally but at times in our state convention.

Q. Would you say that prior to the year 1939 most of the local lodges, or Aeries, in the state had their own medical doctors? A. The larger ones, the ones that were large enough to engage a physician to make it worth-while.

Q. What is the condition now as it exists with respect to that? Do all the organizations—Do all the larger organizations in the state have their own medical doctors? A. Very few; practically none, with the exception of Portland.

Q. To your knowledge has it become more difficult since 1939 to get doctors to cooperate with the Eagles?

Mr. Jaureguy: I object to that as based on hearsay.

The Court: Answer.

A. To the extent that even our C. S. A., which is our constitution and bylaws—there is a provision in there at the

present time making a ruling which permits an Aerie to operate without the Aerie physicians' service. That is contained within our laws.

842 (Photostatic copy of cover sheet of Constitution for Subordinate Aeries, 1949, Fraternal Order of Eagles, and photostatic copy of Page 32 of said document, dealing with Section 18, was thereupon marked Plaintiff's Identification No. 1895.)

Mr. Marcus:

Q. I show you Exhibit 1895, marked for identification, and ask whether that exhibit consists of the cover page of the constitution of the local organization and Section 18 of its constitution? A. Yes, part of that—The latter part of your question pertains to Section 18?

Q. That is right. A. That is correct. That is a copy of that section.

Mr. Marcus: I would like to offer that in evidence.

The Court: Admitted on the same terms as before.

(Document heretofore marked Plaintiff's Identification No. 1895 was thereupon received in evidence and marked Plaintiff's Exhibit No. 1895.)

Mr. Marcus: Your Honor, I would like to read one sentence of that section, Section 18:

"Dispensing with Aerie Physician. Whenever it shall appear to the satisfaction of the Chief Auditor that, by reason of the rules of any medical society, or for any
843 other reason it is impossible to secure the services of an Aerie Physician—"

Then it goes on to say they can use other means.

Mr. Jaureguy: I beg your pardon. I am not sure I agree with you on that.

Mr. Marcus: Do you want me to read it all? I would be glad to.

Mr. Jaureguy: They have many reasons there. "—or whenever it shall appear that it is for the best interests of the Aerie to dispense with the election or employment of an Aerie Physician, the chief auditor, in his discretion, may authorize any such Subordinate Aerie to enter into a contract for the employment of such Aerie Physicians in lieu of their nomination and election as officers of the Aeire; or the chief auditor may permit the Aerie to dispense with the services of an Aerie Physician either by election or employment."

(Photostatic copy of Minutes of Special Meeting of Officers, F. O. E. No. 4, held February 23, 1948, was thereupon marked Plaintiff's Identification No. 1896.)

(Photostatic copy of Minutes of Meeting held Wednesday, February 25, 1948, Portland Aerie No. 4, F. O. E., was thereupon marked Plaintiff's Identification No. 1897.)

Mr. Marcus:

Q. I will show you Exhibit 1896 marked for identification, and ask you whether this is a copy of the minutes of the Officers Meeting of the Eagles Lodge No. 4 for February 23, 1948?

844

The Court: Don't read it all.

Mr. Marcus: I am not going to read it.

A. That is correct.

Q. I show you Exhibit 1897 marked for identification and ask whether this is a copy of the Minutes of the Regular Meeting of Aerie No. 4 held February 25, 1948? A. It is.

Mr. Marcus: I would like to offer both of those documents in evidence.

The Court: Admitted, on the same terms.

(Documents heretofore marked Plaintiff's Identification No. 1896 and No. 1897 were thereupon received in evidence and marked Plaintiff's Exhibits No. 1896 and No. 1897, respectively.)

Mr. Marcus: Your Honor, with respect to this matter of the Eagles, I would like to call your Honor's attention particularly to two items in the exhibits which are already in evidence.

One is an item which appears in Northwest Medicine for August, 1937, Exhibit 315, which contains an account of a meeting of the Council of the Oregon State Medical Society, and contains these two particular sentences:

"Communications were read from component county societies regarding the progress which they are making in eradicating undesirable practices in their counties. Some districts reported that all unethical contract practice would be eliminated by January 1, 1938. An effort is also being made to discontinue unethical contract practic carried on through lodge organizations."

845

The other item comes from the Minutes of Council of

the Oregon State Medical Society of April 2, 1938, and is contained in Exhibit No. 320:

"The Executive Secretary also reported that the Executive Committee had discussed with the representatives of Coos Bay Aerie No. 538, Fraternal Order of Eagles, located in Marshfield, concerning the organization by that lodge of a lay-owned corporation to be known as the Pacific Health Association, to provide medical care on a prepaid basis. The Executive Secretary outlined the principal features of the proposed organization. No formal action was taken with respect to that matter, but it was the consensus of opinion that the proposed plan conflicted in a number of ways with the principles of medical ethics."

Mr. Marcus: That is all.

Cross Examination

By Mr. Jaureguy:

Q. You had, I think, a subpoena to produce documents today? A. That is correct.

846 Q. You produced the originals of these documents that Counsel has shown you here? A. Yes.

Q. Were there any other documents that you produced? I mean, are there any other documents that you brought here in response to that subpoena? A. No.

Q. In other words, what he has shown to you is everything you have on the subject called for in the subpoena? A. No, that would not quite be correct, because there would be one other set of minutes or, rather, a certificate here we filled out, and so on. It asked for everything in connection with this doctor service, and for me to search the records, which I did. I brought everything that I thought pertained to it.

Q. You say there was another committee you brought, another committee meeting? A. Another what?

Q. Minutes of another meeting besides those he showed you? A. There is one here of February 4th that I still have here.

Mr. Marcus: If there is any question, I would like to offer all of them.

Mr. Jaureguy: No, there is no question.

Q. I see the members of this committee were Judge Lonergan, Ray Smith, Alan Brown, B. H. Goldstein and L. N. Granoff. A. That is correct.

847 Q. Apparently that committee never reported anything back to the organization? They have been busy on other matters, I think, some of them. A. Pardon? Q. Some of them have been busy on other matters? A. I would say that I have no records here of their reporting back, if that is what you have reference to.

Mr. Jaureguy: That is all. Thank you.

(Witness excused.)

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848 Ted L. C. Pettersen was thereupon produced as a witness in behalf of the Plaintiff and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Weinstein:

Q. Mr. Pettersen, what is your occupation? A. I run a sawmill down in Camas Valley.

Q. What company are you connected with? A. Camas Logging and Lumber Company.

Q. In what capacity with that company? A. I own it.

Q. How long have you been there? A. Oh, about four or five years.

Mr. Jaureguy: Where is this? I beg your pardon.

A. Camas Valley, Oregon.

Mr. Weinstein:

Q. What county is that in, Mr. Pettersen? A. Douglas.

Q. Are you and the men of the lumber company covered by any prepaid medical care plan? A. We are.

Q. What plan? A. At present by the OPS.

Q. You say at present. Have you been covered by any others? A. Industrial.

849 Q. When? A. Oh, up to about a year and a half ago.

Q. Did you make a change about a year and a half ago? A. Yes.

Q. How come? A. Well, some of the men kind of complained and we had to—the doctors wouldn't take the slips, and they would bill the men, and the men would give me the bill. I would send it into the Industrial Hospital Association, and then they would send a check back to me or to the men to take care of it.

Q. Did the Industrial pay promptly? A. Yes, they paid promptly.

Q. Who takes care of the bookkeeping work? A. Oh, I do it myself.

Q. You do all of it yourself? A. Yes.

Q. Did this refusal of the doctors to take tickets mean any more work for you? A. Yes, it did.

Q. What kind of work? A. Well, I would have to send the bills in for them and ask them if they got their money, and so on.

Q. Why did you decide then to change to another plan? A. Oh, I looked through the circular of the OPS, and most of the doctors there around Roseburg belonged to it. Anyway, there were four or five or six of them there
850 belonged to it, so I changed over to them, and they took the tickets and I was relieved of that work.

Q. You mean, then, it was the burden of this bookkeeping and this work that was a factor in changing your mind? A. Yes, it got to be kind of a nuisance, so I changed.

Q. I see. Does your company send lumber outside of Oregon? A. Yes.

Q. All over the country? A. Well, wherever I can sell it: California, back East, Texas,—even cut some for the Englishmen and some for the Dutchmen, as far as that goes.

Q. Does any go outside the country as far as you know? A. Some went to England about two or three years ago. They ran out of money.

Q. Your Industrial contract, was that a group contract or individual or what? A. Well, it was a group contract. We were all covered under it.

Mr. Weinstein: Your witness, Mr. Jaureguy.

Cross-Examination

By Mr. Jaureguy:

Q. How many men are working for your company, Mr. Pettersen? A. Well, the last year there has only been about 14 or 15. Previous to that time about 25.

851 Q. Do they belong to a union? A. No.

Q. They don't belong to a union? A. No.

Q. The decision to change from Industrial to OPS, was that made just by you or did the men vote on it? A. No, they didn't exactly vote on it. They asked me, or I asked them—it was brought up, and we just kind of discussed it

between ourselves, and I asked them, you know, if it would be all right to change. Some of them, I believe even suggested that we change. So it seemed to be the majority was in favor of it.

Q. You didn't like that red tape of sending in the tickets and then getting the money back? A. Yes.

Q. I mean, sending in the bills? A. That is right. That is about all.

Q. You didn't have any trouble getting itemized bills from the doctors, did you? A. Well, you know, to be honest about it, I don't think I did, because they would have whatever it was—just say "medical treatment" or something like that, and I don't think they itemized them. But the Industrial sent the money very prompt.

Q. Were most of the bills pretty small ones, or were there some big ones in the bunch? A. No, they were not very big. They were mostly small bills.

852 Q. You mean three, five and ten dollars? A. Oh, there may have been some up to fifty. I think there was one up around fifty or sixty dollars, maybe one time, but the rest of them were like you said small, fairly small.

Q. Do you find any advantages under the OPS arrangement? A. Oh, I can't see much difference in them, to be honest about it.

Q. A good deal the same, are they? A. What?

Q. A good deal the same? A. Yes, a good deal the same. They both furnish medicine about the same.

Q. They furnish medicine, do they? A. Oh, yes, they always give you, you know—

Q. Prescriptions? A. No, medicine, a kit that you keep—

Q. You mean a first aid matter? A. Yes, and they send you medicine whenever you need it; iodine, bandages, tape.

Q. What is that? A. Mercurochrome.

Q. For first aid work? A. That is right, to keep some around. They both do the same.

Q. Were the bills that the doctors rendered always
853 paid in full by the Industrial? A. I have never heard of them being otherwise. That is chiseled down, you mean?

Q. That is what I had in mind. A. That is right, no. They were always paid so far as I know.

Mr. Jaureguy: That is all.

Redirect Examination

By Mr. Weinstein:

Q. Mr. Pettersen, one more question. Do you have any trouble with the doctors taking OPS tickets down there? A. Well, I had one fellow tell me that he would rather not take them.

Q. Did he take your tickets, though? A. He said he didn't care to take any tickets, if that is what you mean.

Mr. Weinstein: That is all.

The Witness: Because he said he had trouble sending the bills in to the OPS, and he didn't want to be bothered with it, he said.

Mr. Weinstein: That is all.

The Court: Was that a doctor who belong to the OPS?

A. By gosh, I believe he does, Judge. I don't know.

854 Recross-Examination

By Mr. Jaureguy:

Q. Do all the doctors there belong to the OPS, do you know? A. No, I wouldn't say they do. I wouldn't say they don't. You mean in Roseburg?

Q. Yes, that is what I am talking about. A. No, I don't really know, because I don't know any of them personally.

Q. Roseburg is the place you get your medical service, isn't it? A. Yes, it is the closest to Camas Valley, so most of them go there. Sometimes they go to Myrtle Point and other places too, but I believe 99 per cent, they go to Roseburg.

Q. How far is it from Camas Valley to Roseburg? A. Oh, about—close to 30 miles; 28.

Q. Roseburg is the nearest place? A. Yes. Myrtle Point is almost as close; maybe 32.

The Court: What is the OPS plan? Does a member have to go to the OPS doctor?

Mr. Jaureguy: Yes, except in emergencies he must. He is only entitled to service from an OPS cooperating physician unless it is an emergency or outside the state, or something. That is all.

Mr. Weinstein: That is all.

(Witness Excused)

855 JOHN ZAK was thereupon produced as a witness in behalf of the Plaintiff and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Zak, what is your occupation? A. Sawmill worker.

Q. With what company? A. Sir?

Q. With what company? A. Working for Pope & Talbot, Inc.

Q. Where are they located? A. At St. Helens, Oregon.

Q. About how long have you been with them? A. Well, I started in with them in the fall of '29 and then I left them until '35, and I come back—I have been there since '35.

Q. I see. What is the local union down there? A. The local is AF of L No. 2522.

Q. Have you been a member of that union? A. Yes, sir.

Q. Have you been an officer of that union? A. Yes, sir.

Q. Could you tell us what office you held? A. Well, I have held all the offices in the union. I was president

856 one time, secretary, trustee, different times during my—

Q. During most of the time you have been with the union, then, you have held one office or another? A. Yes, sir.

Q. Does the union have a sick committee? A. Yes, sir.

Q. Could you tell us in general what its functions are. A. Well, every year after the new officers are elected the chairman, he picks his sick committee for the year. There are three members appointed on the sick committee for one year. I have been on the sick committee there nearly continuously since '35, until August of this year.

Q. Is there a chairman of that committee? A. Yes, sir.

Q. Were you the chairman? A. Well, part of the time I was chairman.

Q. Could you tell us the size of that union, about how many members it has? A. Well, I would say approximately—it varies sometimes, but I would say about 300.

Q. Do most of the members work for the Pope & Talbot Company? A. Yes, sir.

Q. And has that company carried prepaid medical care

insurance for its employees?" A. You mean do they
857 deduct—

Q. Are most of the members of the union covered by some form of prepaid medical care insurance? A. Well, up to the last year the company would sign a contract with the hospital association for prepaid medicine, up until the first of April this year. After the first of April, why, the union officers signed a contract with the hospital association.

Q. Well, going back to the year 1935, with what company was prepaid medical care insurance held at that time by members of the union? A. Well, along in 1935, I think until '39, they was under the National Hospital Association.

Q. And then what happened? A. Then in 1939, December, 1939, to May, 1942, they was under the Multnomah Medical Service.

Q. What was the occasion for the change, to your knowledge, at that time? A. Well, during the time that we was in with the National Hospital Association the doctors there refused to take our tickets from the National, and they would treat the member as a private citizen. And then they would have to turn in their bill, and we would have to send the bills into the National, and get them itemized, and then they would send the check back to the man, and he would have to take it to the doctor to pay it, and it was kind of a round-about way. And in a
858 case of that kind, whenever something goes wrong of that kind, the boys take it up there and the majority wins. And they decided that in order to get away from that they would join the Multnomah and get away from that altogether.

Q. How long were they with the Multnomah group? A. They was with the Multnomah Group from 1939 to May, 1942.

Q. And then what change was made? A. They went then to Industrial.

Q. Why did they make that change? A. Well, when we was trying to make a contract with them, there was things we wanted them to put in the contract, and they refused to do it, and we dickered back and forth, and we finally decided we was going to quit them, and we went into the industrial.

Q. How long were the members of your union under the Industrial Hospital Association prepaid medical care service plan when that change was made? A. Well, we was in th Industrial from May, 1942, to May, 1945.

Q. And then what change was made? A. Then we changed back to the Oregon Physicians' Service, in May, 1945, until April the 1st, 1949.

Q. And what change was made at that time? A. What made us change at that time?

Q. I say, what change was made at that time? A. Well, during the time that we was in the OPS, lots of
859 the members there, they wanted to have different doctors, osteopaths or chiropractors, and the OPS wouldn't sanction only a limited amount of that service. And the boys got tired of it, and they finally decided that they were going to pull out, and they went back into the Industrial.

Q. To your knowledge, during the periods when the members of your union were covered by these various hospital associations did they experience trouble in having doctors accept tickets in that area? A. Well, the first couple of years there was, I think, one or two that took tickets. The rest of them wouldn't take any tickets from the different hospital associations. While we was under the Multnomah, why, the medical doctors would take the tickets, and then when we was under the OPS they would take the tickets.

Q. Now, when members took up with the union, if they did, their troubles arising from doctors not accepting tickets, did they take it up with the sick committee? A. I didn't understand that.

Q. When a member would go to a doctor and the doctor would not accept the ticket and the member would want to have something done about that, would they go to the sick committee of the union? A. They sure would. They sure would.

Q. Would you say that a good part of your work
860 was devoted to taking care of that kind of complaint? A. Well, some of it was. Some of it was visiting sick brothers, looking to see that they got medical care and everything.

861 Mr. Marcus:

Q. And when did you leave the sick committee? A. In August, 1949.

Q. And why did you leave that sick committee? A. Well, I left the sick committee, and I left everything. I had too many offices to take care of and I couldn't, didn't have any time of my own, and I just ditched them all.

Mr. Marcus: Well, that is all.

Cross Examination

By Mr. Jaureguy:

Q. You said the first couple of years that some of the doctors took tickets and some didn't, and I don't know whether you had reference to 1935-36 or 1942-43. A. No. 1938 and '9.

Q. 1938 and '9. That was the last— A. That was under the National.

Q. That was the last two years you were under National? A. Yes.

Q. A couple of doctors took tickets? A. Yes.

Q. Why were they, do you remember? A. Well, we used to have a doctor there—I don't know whether he is practicing now or not—Dr. Flynn.

Q. Dr. Flynn, he took tickets? A. He did. And I think there was a Doctor—At that time I think there was a doctor there—I can't think of his name now.

862 Q. Barton? A. No, no; not Barton, no.

Q. Starr? A. No.

Q. Wooden, Ball? A. No, it wasn't them.

Q. Schlegel, Eby? A. He was stationed part of the time at Scappoose.

Q. Oh, part of the time at Scappoose? A. I can't think of his name.

Q. Well, anyway, that isn't very important, I guess. Then in 1942 and '43 how many doctors took tickets, if any? A. We was under the Multnomah then and they all took tickets, all the medical doctors.

Q. I think the middle of '42 you went over to the Industrial, didn't you? You said from '42 to '45 you were under Industrial. A. Yes.

Q. Did they take tickets then? A. '42 to '45?

Q. Yes. A. No, they didn't. They didn't take tickets, but we managed to get by with just—

Q. Sending in your bills? A. Just having them treated locally as individuals and then sending our bills in to the Industrial.

863 Q. Yes. And those bills were paid? A. Yes.

Q. And then you quit OPS because you couldn't go to chiropractors? A. Yes.

Q. Was it a pretty—I suppose then that you thought as between not going to chiropractors and sending in your bills, why, you preferred to go to the trouble of sending

in your bills? A. Well, you mean the reason we left the OPS?

Q. Yes. Because you couldn't go to chiropractors at OPS expense? A. Well, we had more than that on them.

Q. More than that? A. Yes. We was trying to fix up a contract with the OPS and we couldn't get anywhere with them.

Q. Couldn't get anywhere with them? A. The local union.

Q. You mean a different contract than you had between 1945 and '49? A. Yes.

Q. But what was there about it that you didn't like other than the fact that they wouldn't pay the chiropractors? A. Well, they wouldn't give us penicillin.

Q. Wouldn't give you penicillin? A. No.

864 Q. Well, does the Industrial give you penicillin?

A. Yes.

Q. Those were the two main things, or were there others? A. Well, there was a limited amount of times that they could go to a chiropractor and osteopath. That had a lot to do with it, quite a bit. A lot of the boys down there believe in this osteopath treatment and they wanted to go there, and they would only allow them to go there twice.

Q. Twice a year, is that? A. No, no; twice for one sickness.

Q. Twice for one sickness. Other than that, the treatment you got under OPS was all right? A. Well, I guess it was.

Q. You survived, anyway? A. I never went to a doctor, so I don't have any treatment.

Mr. Jaureguy: That is all. Thank you—oh, pardon me, maybe there is something else—that is all. Thank you.

(Witness excused.)

The Court: Recess.

(Short recess.)

Mr. Marcus: Mr. Minckley.

865 WILTON E. MINCKLEY was thereupon produced as a witness in behalf of Plaintiff and, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Minckley, what is your occupation? A. Sawmill worker.

Q. With what company? A. Prouty Lumber & Box.

Q. And where are they located? A. Warrenton, Oregon.

Q. And about how long have you been with them? A. About twenty-six years.

Q. Before I forget, in what county is Warrenton located? A. Clatsop, State of Oregon.

Q. Is there a union in that area? A. There is.

Q. And could you tell us its name? A. Lumber and Sawmill Workers, Local 2603.

Q. Is that a CIO or AF of L union? A. It is affiliated with the AF of L, Carpenters and Joiners.

Q. And have you been a member of that union? A. Since it was organized in '35.

Q. And have you held office in that union? A. I have held vice-president, president, and recording secre-

866 tary.

Q. About how large a membership has that union? A. It runs in the neighborhood of 150 members. Sometimes a little up and sometimes down.

Q. Are most of those members covered by prepaid medical care insurance?

The Court: Mr. Marcus, you have a lot of cumulative testimony about Clatsop County.

Mr. Marcus: This has a variation, your Honor. I am going to get his own experiences.

A. Yes; as far as I know, they are all covered with some kind of insurance.

Mr. Marcus:

Q. And with what company are most of the members covered? A. National Hospital Association.

Q. By virtue of your connection with the union do you know what the situation down there is with respect to doctors accepting tickets? A. Well, they don't want to

take them; in fact, they don't take them, because it is brought up on occasion.

Q. Now, have you yourself had any personal experiences in that connection? A. Well, about the only personal experience I have had in the ticket line, inasmuch as I knew before I had cause to use one that most of them didn't take them with the exceptions of Dr. VanDusen and
867 Jasper, as medical doctors, I never try to give them to anyone else except Dr. Spalding, I believe, Dr. Spalding. When I received an eye injury I went to an eye doctor, and nothing was said whether I belonged to any organization or not. He treated me and turned me out in the office, outer office, and I gave—

Q. That was in Dr. Spalding's office? A. Dr. Spalding's office. I gave the attendant, the girl that was there in the office, a National Hospital ticket. She looked at it and looked up at me and says, "I am sorry, Mr. Minckley, but I can't accept that as payment." "Well," I says, "according to that, then, I will have to dig down in my pocket and pay it." Well, she says, "It would be better in a way." She says, "I think you can send the ticket in and get the money," which I did.

Q. Well, did you have occasion during the period you have been covered by your National Hospital Association to call on Dr. Straumfjord? A. I did.

Q. And could you tell us the occasion and what happened at that time. A. Well, my doctor was VanDusen, as a medical doctor, and at one time I went to the hospital, was sick, right sick, went in an ambulance, and Dr. VanDusen was unavailable, and the head nurse at the Columbia Hospital advised Dr. Straumfjord. I was there I
868 think about a month, and he was the attending physician for me. And several times he would stop and talk a few minutes when he came in. As far as medical attention was concerned, I didn't need any. What I needed, according to him, was rest. But eventually we found out that there was something wrong and he advised me to come to Portland to a specialist. And during our conversation—it runs more or less—inasmuch as he knew I was an officer at the time in the union, and it was just about time for our contract, the contract to expire between the company and the—that is what we called our contract. It was between the company, Prouty Lumber, and the medical company or National company, and he suggested that we make a change. And I told him, "No," I says, "I can't do anything like that, Doc." But eventually they asked for a

chance to explain their contract at a union meeting, which was granted, and at the final outcome, after the field man had left, we brought it to a vote with one vote cast to make a change, the rest unanimous to stay where we were because they felt that there was no use of trading when we had nothing better to go to.

Q. Now, did you have occasion to take up with Dr. Straumfjord the matter of accepting your ticket with respect to an illness that he was treating you for? A. I believe, as it came up, it was in the hospital one day when he was sitting there chatting. I told him, "Well, I don't know when you will get your money, Doc, because
869 I didn't get no ticket when I come over here. I come over at night." And, talking back and forth, and he finally said that he couldn't take the ticket. "Can't take it." "Why can't you take it? Doc VanDusen takes them." "Well," he says, "I am a member of the OPS and I am not permitted to take the tickets."

Q. While you have been under National Hospital Association coverage can you tell us the amount of your medical bills the National Hospital Association has paid? A. Not exactly, but I would say in the neighborhood of $250—or $2250.

Q. And has that payment been made, the full amount of the various medical bills that you have incurred? A. The ones I have paid personally with checks that have been sent to me where the doctors have refused to take tickets, an even 100 per cent, and, as far as I know, the others that were paid directly from the National were paid 100 per cent.

Q. Have you ever had any trouble getting an itemized statement from a doctor who did not accept tickets? A. Well, yes, I had a little trouble when I got—I put in about seven months on the sick list and after I came back from Portland, when I was operated on in late 1944, I didn't get around much.

I asked my Missus to get an itemized statement from Dr. Straumfjord's office for the care I had in the hospital at
870 Astoria. She went to the office and asked the girl for a statement and she says, "Mrs. Minckley, we are awful busy today," which she could see they were, but, she says, "Probably in a day or two I can get it for you. You call when you come in next time and I will try and have it ready."

I think she called about three times, and I wasn't feeling too hot, and I believe Mrs. Bozart took me over to Dr.

Straumfjord's office and I asked the doctor that day, after he had looked me over a little bit, I says, "What is the reason, Doc, I can't get a statement from the secretary out there?"

"Well," he says, "you know, Minckley, if we had to make out a statement for everybody that comes here, I would have to employ a large office force, and I haven't got room even to put it in here."

I said, "You can't get your money that the National Hospital owes you until you fill that blank out that they require to have filled out, or give them an itemized statement." I says, "You know, as a business matter, nobody is going to pay a bill of that size unless they know what they are paying."

"Well," he said, "I will talk to the girls and get them to make it out as soon as they can," and I dare say in the course of ten days I received it.

Mr. Marcus: That is all.

Cross Examination

By Mr. Jaureguy:

871 Q. I suppose the reason you got it so quickly is that the doctor wanted to get his money? A. I don't know about that. I suppose that had some connection with it.

Q. How long a statement was it, three or four pages? A. Oh, no. It was for while I was in the hospital and I believe two calls added onto it, office calls after I left the hospital, and the statement was made out, as I remember it, "For medical care at Columbia Hospital" from date so-and-so to a date so-and-so, which was about 28 days, I think, and then there was a couple of office calls added later with the date, the day and date.

Q. He gave that to you and you sent it in to National? A. That is right.

Q. Then you got a check back? A. I did.

Q. And then you paid him? A. I did.

Q. Did you turn the check over to him? A. No, I signed the check and my Missus took it over and his secretary said, "I am sorry, Mrs. Minckley, this is made out to Mr. Minckley."

"Well," she said, "he endorsed it on the back."

"Well," she says, "I would a good deal rather you would take it and get it cashed than for us to handle it at all."

"Well," she said, "then you don't want to take
872 it?" And she said, "No, I don't want to take it."

It made her mad and she brought the check back home and gave it to me and, in the course of time, I went to Astoria again and when I did I got the check cashed and took the money up and paid him.

Q. You gave us an estimate of $2,150 as the total amount, the total sum. Some of that never went through your hands at all, did it? A. Oh, no.

Q. How did you get those figures? A. I asked here some time ago—I asked National over an argument that we had in the union meeting. I asked the National Hospital if they would send me a statement of the services that had been rendered to me in my name, and they said they would.

Q. That was for use in an argument in a union meeting? A. For use in the union meeting.

Q. How many were there present at that meeting where you voted as to whether to make a change? A. I couldn't say, but I would say there was between 35 and 40.

Q. Out of your 150? A. Out of the 150.

Q. Only one voted to change? A. That is right.

Q. I guess you do not regard this as such a great burden to get an itemized statement and send it in to National? Do they? A. They require a statement but of late,
873 I understand, when they make that statement out, in place of saying "Professional Services" they will write on it "Office Call" or "Injury" or something.

Q. But from the standpoint of the men they don't regard it,—I mean the men that voted at that meeting—they don't regard it as much of a burden to get that statement and mail it to National and get the money back? They don't regard it as much of a burden? A. But I can tell you another thing that come up on the floor during the discussion at that meeting. I can't have the minutes to show you, but it was brought on the floor by a son of the last man that was sitting here, Frank Zak, and he said, well,—I can't say it in the words that he said it, but the sum and substance was—

Q. Was that at the union meeting? A. Right. It was on the discussion of the question. Frank said, "Well, you let OPS have it all and, by God, you won't be paying any two and a half for office calls you are paying today."

Q. You don't pay anything today for office calls, do you? A. We personally don't, that is, as members, but our families has to pay.

Q. Your family has to pay? A. Yes. The point he was trying to bring out was that in his estimation an office call would probably be $5.

874 Q. Your family is covered, is it? A. No. It is just a group plan at the mill, deducted from the payroll.

Q. You mean if you abandoned National— A. I beg your pardon?

Q. You mean that if you did not stay with National the doctors would up their charges for the members' families from $2.50 to $5.00 an office call? A. That was the consensus that he tried to put over. He felt in his mind, I guess, that it was right, that they would have a monopoly on it and they could charge what they pleased.

Q. Did that make sense to you? A. Yes, sir.

Q. I want to know if I understand you correctly. You said that when your wife goes in to see a doctor, she not being covered by National, the doctor would charge you $2.50, but if you leave National and go to OPS or some other company then your wife, whose bill is not covered, would get charged $5.00; is that his argument? A. The argument that he had was he thought all the different independent organizations, National, Industrial and so on —if they were all put out of business so the OPS had 100 per cent control, that they could do as they pleased about their charges.

Q. You mean even for those who are not covered by the contract? A. That is for everyone. Of course, the ones that are covered, I don't know how that would work

875 out. We would be paying, in place of $3.50 a month, he figured we would be paying at least $5.00 a month.

Q. That outweighed the argument the other way about the tickets? A. That is what brought the vote to stay where we were.

Q. That was a union man who made that statement; it was not a representative of some company? A. No, that was a union man, and, as he explained it, their contract, it was no better than the one we already had. We had a copy of our contract and he had a copy of it.

Q. You came to Portland for a specialist, to have your operation? A. I did.

Q. Do you remember what his name was? A. Ralph Masten.

Q. Did he take your National ticket, his office? A. I didn't have any ticket.

Q. You didn't have any ticket? A. No, but he was paid a check for the operation from the National Hospital. I

believe he sent the statement to the National and they paid him, because I asked the doctor if he ever got his money and he said, "You bet your life. I always get it."

Mr. Jaureguy: I think that is all. Thank you very much.

876 Redirect Examination

By Mr. Marcus:

Q. Mr. Jaureguy has asked you as to whether the men thought it a burden to get itemized statements and send them in.

The question I would like to ask you is whether to your knowledge the men regarded it as an inconvenience to either have to pay cash, instead of using tickets, or having to send in the doctor's bill and waiting for a refund and, at times, having to get an itemized statement? A. It seems to be customary among the boys—they will get a statement. Most of them are just like I was when I got my eye hurt. They just say, "Well, give me a statement," when they come out of the doctor's office. They get a statement for an office call and send it in and get their money, and at the end of the month they will get another statement from the doctor, that is, a monthly statement, and they take it in and pay it. They get the checks cashed because it is written in their names.

Q. Does the union send in these bills or do the men? A. Absolutely not. The union has absolutely nothing to do with it.

Q. The men do that? A. Well, as a general rule, the men will give the slip to the timekeeper at the mill. He has been good enough to help them out that way. Personally, I send my own. I don't think I have turned in more
877 than one or two.

(Statement of medical bills paid by National Hospital Association on account of Wilton E. Minckley was thereupon marked PLAINTIFF'S IDENTIFICATION No. 1898.)

Mr. Marcus:

Q. I show you what has been marked as Exhibit 1898, for identification, and ask you whether that is a statement of your medical bills which the National Hospital Association paid during the period you have been covered by one of its policies? A It is, sir.

Mr. Marcus: I would like to offer that in evidence.

The Court: Admitted.

Mr. Jaureguy: Subject to our right to make objections later?

The Court: It is so understood.

(Document previously marked Plaintiff's Identification No. 1898 was thereupon received in evidence and marked PLAINTIFF'S EXHIBIT No. 1898.)

Mr. Marcus: That is all.

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878 WALTER J. PAGE was thereupon produced as a witness in behalf of the plaintiff and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Page, what is your occupation? A. Claims Manager, National Hospital Association.

Q. How long have you held that position? A. A bit over eighteen years.

Q. Did you hold that position since your first connection with the Association? A. Oh, I think my title varied, but the same position.

Q. What were you doing before you came to the Association? A. I was with the State Industrial Accident Commission, Salem.

Q. Could you tell us the general nature of your duties and functions as the Claims Manager of the National Hospital Association? A. Well, the duty is the supervision of the Claims Department, passing on various claims, and things of that nature, all in connection with the payment of bills, the supervision of correspondence, personal interviews, and whatever there is to be done.

879 Q. About how many persons are employed in your particular office doing that sort of work? A. Well, in the Claims Department, oh, there must be probably—right offhand I can't tell accurately, but I would say 12 or 15; maybe 18. No, there is more than that, I guess. Approximately 20, I would say. I could count them.

Q. Has it been your regular practice and part of the regular course of business to make records of problems

arising out of claims that are brought to your attention? A. Yes.

Q. And does that include problems arising from doctors not accepting tickets of the Association or not accepting its checks? A. It does.

Q. To your knowledge, has the non-acceptance of tickets by doctors or the non-acceptance of checks been general? A. I didn't get the question.

(Last question read)

A. Yes, in districts.

Q. Could you name the particular districts where you have experienced that in some degree? A. Astoria, St. Helens, Oregon City, Coos Bay, North Bend, Eugene, Roseburg, Grants Pass, Medford, Klamath Falls, Lakeview and some in Pendleton and LaGrande.

Q. What about Portland? A. I overlooked Port-
880 land. It is quite general in Portland.

Q. Has this lack of cooperation by doctors or the boycott with respect to accepting tickets or accepting checks increased the amount of work in your office? A. Very materially.

Mr. Jaureguy: Your Honor, I would object to that word "boycott." He gets that from the documents of the National Hospital Association.

Mr. Marcus: I get that as a common word that has been used the last several days.

The Court: Say "Captain Boycott."

(Last question read)

A. Very materially, I would say.

Mr. Marcus:

Q. Has it meant more paper work? A. Yes, sir.

Q. Has it meant more clerical help? A. Yes, sir.

Q. And has it meant more of your own time being spent on such matters? A. Yes, sir.

Q. Is that true of other persons in your particular office? A. That is right.

Q. Now, do the field representatives of the National Hospital Association take up particular problems which come to their attention with you from time to time?
881 A. Well, the field men, of course, report in their difficulties in the matter of claims, and they are discussed with me and with the men.

Q. Have they reported to you difficulties that they have encountered in the field with respect to doctors not accepting tickets and not accepting checks? A. They have.

Q. Has there come to your personal attention some instances where doctors have refused to accept tickets and refused to accept checks?

Mr. Jaureguy: I object to that as based on hearsay.

The Court: Answer.

(Last question read)

A. Well, there are a number of cases. To recall them, I couldn't report each one. I wouldn't be able to do that. My memory isn't that good. But it is constant.

Mr. Marcus:

Q. I will come back to that question in a minute, but there is another question which I would like to ask you. Could you tell us how you consider the National Hospital Association to be adversely affected, if at all, by virtue of the doctors not accepting tickets and not accepting checks? A. Well, to answer that I would have to relate the procedure—some of the procedures in the office.

Q. Do that, please. A. The difference between
882 cases where the doctor refuses the ticket and those that are accepted are handled—since the so-called boycott are handled in a different manner, and increases the amount of work in the office. The mail is opened in the morning, bills come in from doctors who accept tickets—who cooperate, I might say—and those go through in a normal manner. They are passed over to what we term our cost department, and there they are processed. Normally, the bills come in from a doctor who cooperates monthly, and he sends in a stack of bills, however many he has got, and those go through—I never see them unless there is something unusual about them; some question or something, I never see them. The bills from the doctors which are presented through the members—from doctors who refuse tickets, or who refuse to, we will again say "cooperate", those come and have to be handled in a separate manner, and they are handled day by day. Normally these bills come in that manner, and they simply say "Professional Services," and then maybe $10, $50, $125, or whatever. Then it is necessary to write to the member again and ask him to go to his doctor and get an itemized statement so that we may determine whether or not that

claim is payable. That is some part of the difficulties experienced between the non-cooperating doctor and the cooperating doctor.

883 Q. Now, Mr. Page, have you yourself at times had occasion to call up doctors who have refused to accept tickets? A. I call many times for appointments. I call for appointments with specialists. That is part of the job that has to be done. You get calls from doctors in the outlying districts, like from Hood River, or any place—

Q. Let me ask you this question: Have members ever come to you and said that doctors have refused to accept tickets, and have you then tried to call the doctors or some of them? A. I don't recall that particularly. It has probably happened, but I am not sure about that.

(Carbon copy of Memo dated November 6, 1947, in re Dr. Wendell Hutchins, was thereupon marked PLAINTIFF'S EXHIBIT 1899 for identification.)

Mr. Jaureguy: That is not a conversation with a doctor, anyway. That is another one of those things like we had this morning.

Mr. Marcus:

Q. I show you Exhibit 1899 marked for identification, which is a memorandum written by you on November 6, 1947, and ask you to look at this and then see whether it refreshes your recollection. A. Yes, that is mine. I wrote it.

Q. Could you tell us about that incident? A. This is a memorandum of—

884 Mr. Jaureguy: I object to that. You were not asked that. I mean it is immaterial what the memorandum is a memorandum of.

Mr. Marcus: Go ahead.

Mr. Jaureguy: No, I want a ruling on that, your Honor. I don't think that a witness out of court can write something and say, "Here is my statement, and I will stick to it," and hand the memorandum to somebody.

Mr. Marcus: This was written in 1947.

Mr. Jaureguy: That doesn't make any difference when he wrote it.

The Court: Does that cause you to remember anything?

A. Yes, I recall the case.

The Court: Tell about it.

A. This man came into the office. I forget the date now. But he is a member of ours through the Oregon Motor Stages. The man is highly—I forget, but he had been to another doctor, and his situation was that he was highly nervous. Someone had suggested that he go to a psychiatrist or neurologist, or something to that effect, and at that time it was one of my duties to find him the sort of specialist that he needs. So having had previous cases—sent previous cases to Dr. Hutchins, I called Dr. Hutchins' office and arranged for him to go. Then I later, after he went up there—it seems to me the girl called me and told me—

885 Mr. Jaureguy: I object to that as hearsay.

The Court: Go ahead for awhile.

A. —told me that the doctor could not take him as a National case. And I protested due to the fact this fellow had been in my office and I had sent him up there, and also the fact that I had sent other cases, and I said, "I particularly would like to get this boy taken care of because I don't want to run him around, due to his nervous condition." And she said, well, she would see about it, maybe they could do this. I said, "If you can't do this, forget it then." Well, she said she would see. Well, I didn't want this man presented a bill because of his condition; and she later called me back and said no, they couldn't do it. It was just out. Well, I said, "You treat him anyway you can, and then tell him to come back to me." He went on with his treatment, I assume. I don't recall how it ended.

Mr. Marcus: I would like to have this marked for identification.

(A memorandum dated April 5, 1946, with the typed signature of W. J. Page, was thereupon marked PLAINTIFF'S EXHIBIT 1900 for identification.)

Q. Now, do you recall an instance with respect to W. D. Wright of the Spaulding Pulp & Paper Company? A. Yes, I wrote a memorandum about the case.

886 Q. Can you tell us about that incident? A. This man came into the office—I can't tell you the date, but I remember the case very well.

Q. Would you kindly look at Exhibit 1900 for identifica-

tion and see whether that refreshes your recollection with respect to the date. A. April 5, 1946.

Q. Will you tell us about that incident. A. I followed my usual practice then. This man came in from Newberg. he wanted to go to a specialist—he wanted to go to Dr Petheram. He wanted me to get him an appointment. I called Dr. Petheram's office.

The Court: What doctor?

A. Charles Petheram.

Q. Is he in Portland? A. Yes, that is Portland. And I asked for an appointment for the man, and naturally I always tell them who I am and what I want, and this man particularly wanted to go to Dr. Petheram. And I called there, and the girl, who was a very courteous person and whom I have talked to many times—I told her the circumstances, knowing through previous advice from there that they did not accept National cases, and I told her that this man particularly asked to come there and would it be all right. She said, "Well"—

Mr. Jaureguy: Now, just a moment. I object to
887 that on the ground it is hearsay.

The Court: Sustained.

Mr. Marcus: Well, your Honor, he has just testified—

The Court: Continue. Proceed. Keep on.

A. I asked her then if they would take care of the man, and she said no, they couldn't do it because they were a member of OPS, and they were not permitted to do so. And the man, of course, was disappointed because that had been his doctor. But I finally found some other doctor. I don't remember.

Mr. Marcus: That is all.

Cross-Examination

By Mr. Jaureguy:

Q. You have been with the National how long? A. Eighteen years last April.

Q. You have had different titles, but your work has been largely the same? A. Well, Mr. Jaureguy, my work has been in claims right through. I don't know as to the different titles. When I first came there the man who preceded me was designated office manager. I assumed

that title, but I have been claims manager for, I would say, probably 16 out of the 18 years. I don't know.

Q. Have you ever had occasion to refuse to pay bills because authorization was not obtained in advance? A. I don't think we have ever refused to pay a bill
888 because authorization was not obtained, Mr. Jaureguy. No, I don't think we have.

Q. Have you ever called to the attention of doctors that it was necessary for them to obtain authorization in advance? A. Well, that is possible; I am not sure about that. I would say that it probably has been, yes. Authorization, though, would be to accept the case under the Association's guarantee of paying the bill.

Q. Now, were you here when I was cross-examining Mr. Bechtold? A. Yes, Mr. Jaureguy, I was here.

Q. And he disclaimed responsibility here for Exhibit 1873 that has your signature on it, where you criticised a doctor for a fluoroscopic examination when he didn't get authorization in advance. A. That is a long time ago. These things are hard to remember. Yes, I wrote that, Mr. Jaureguy.

Q. What was your fee schedule for fluoroscopic examinations, do you know? A. Fluoroscopic examinations vary. It may be a fluoroscope for setting a bone, or it may be the stomach or so and so.

Q. What would be the necessity for a fluoroscopic examination? A. In this case it says stomach. This says examination of a stomach.

Q. What would be the purpose of that? A. Diagnosis, I assume.

889 Q. You are not a doctor, I take it? A. Me?

Q. Yes. A. Oh, no, no.

Q. You have not had medical training? A. No, no.

Q. You don't think you are in a position to give suggestions to a Doctor of Medicine as to how he ought to proceed? A. No, Mr. Jaureguy. I don't attempt that.

Q. Why did you think he should have gotten this permission for the fluoroscopic examination in advance? A. Well, the only reason for that would be to know that we would pay him for it. And, incidentally, we did pay him.

Q. Well, when you got the bill, what was the—what did you have to investigate to determine wether you would pay it? A. Well, if you are familiar with our contracts, certain conditions are not covered under certain coverage periods.

Q. Well, the fluoroscopic— A. The same thing applies to other contracts, too.

Q. But the condition here was ulcer of the stomach. A. Yes. The stomach condition might be pre-existent, pre-existent for this man's coverage period, or it might be where he had a condition that developed within the first six months of a chronic nature of stomach, heart, liver, kidney—

890 Q. Why didn't you object to the rest of the bill? A. I didn't object to the bill.

Q. I say, why—the ulcer situation there was a situation that you recognized came under your coverage? A. That is right—oh, no, no, no. I didn't say that, because I didn't know whether it came under the coverage or not.

Q. But you didn't object to any item in the bill but fluoroscopic examination. A. I don't know whether there was any other item in the bill.

Q. But you say the statement for a patient whom you treated for an ulcer of the stomach. A. That is right.

Q. Now, the fluoroscopic examination was not a treatment of an ulcer? A. No. It is examination for an ulcer.

Q. Yes. So you didn't object to the treatment, but you did object to the examination? A. Well, the whole thing, the whole thing would be in question for a condition not covered by the contract.

Q. Well, then, look at that again. Did you object to the whole thing or did you just object to the fluoroscopic examination? A. Well, I don't know what the other, what the bill was.

891 Mr. Marcus: Your Honor, I submit that on its face there is no objection to the fluoroscopic examination. There is an admonition to the doctor for not having warned the Association that they were going to do this.

Mr. Jaureguy: Well, I will read the paragraph so it will be evident that that statement is not entirely true. "We note you have made a charge for a fluoroscopic examination of the stomach on February 2nd. We do not find a record of this case having been reported to us and authority obtained for this examination. Will you please advise."

(Exhibit 1873 is as follows:)

"Portland, Oregon
March 28, 1936

"Dr. A. O. Pitman
Hillsboro, Oregon

"Dear Doctor: Re: Russell Rash— Stimpson Lumber Co.

"We received your statement for care of Russell Rash, an employee of Stimpson Lumber Company, whom you treated for a ulcer of the stomach.

"We note you have made a charge for a fluoroscopic examination of the stomach on February 2nd. We do not find a record of this case having been reported to us and authority obtained for this examination. Will you please advise.

"Yours very truly, National Hospital Association

"W. J. Page Service Manager"

892 Q. (Continuing) That is what you said? A. Yes.

Q. And you say there— A. By that I mean that we would be unable to determine whether we would pay for it, and further means that in order for the doctor to know that he would be paid he should report it to us.

Q. Before he has the fluoroscopic examination? A. It doesn't make any difference. A doctor wouldn't wait to do a fluoroscopic examination if he thought it indicated, for you or me or anybody else, if he was a doctor.

Q. That is, he wouldn't ask you for authority? A. He wouldn't wait for service to a man needing service to determine whether he would have his bill paid or not.

Q. Therefore, you think that where a doctor, where one of your members went to a doctor and the doctor was satisfied that he was one of your members, or maybe whether he was satisfied or not, he wouldn't wait to get your authority before he conducted an examination or a test to perform an operation? A. Any authority would be the matter of responsibility for the treatment. Now, if he wanted to wait, why, that is his business, not ours, but he wouldn't wait normally.

Q. That is, his proper procedure would be to go and perform the operation or conduct the test or examination without getting authority in advance? A. I
893 wouldn't be able to say what his, what he should do.

Q. I thought you said just a few moments ago

that the doctor wouldn't wait for authority but would go ahead and do it. A. I assumed that he would. May I correct it to that extent.

Q. Now, you will admit that you wrote a lot of letters calling doctors' attention to the fact that they didn't get authority in advance for doing some particular thing? A. No, I wouldn't say a lot of letters, Mr. Jaureguy. I don't know. Back that far I can't remember what happened.

Mr. Jaureguy: Counsel has a lot of exhibits that I let them look at—I didn't tell them to have them back this afternoon—

Mr. Cohen: I will have to go downstairs for them.

The Court: Well, I expect the examination is going to run for a little while longer, isn't it?

Mr. Jaureguy: Well, a little while, anyway.

The Court: We will adjourn.

894 Court reconvened at 10:00 o'clock A. M., Friday, October 28, 1949.

(File of correspondence and documents in re: Proceedings before Board of Censors, Multnomah County Medical Society—Drs. H. R. Shields and William F. Beck—marked PLAINTIFF'S IDENTIFICATION No. 1901 to 1934, inclusive.)

(Correspondence between National Hospital Association and Jon V. Straumfjord, in re: 42 patients, etc., marked DEFENDANTS' IDENTIFICATION 1935.)

(Correspondence between National Hospital Association and Dr. Straumfjord in re: Statement, Dayton Truck Company, marked DEFENDANTS' IDENTIFICATION 1936.)

(Correspondence between National Hospital Association and Drs. Straumfjord and Cone, in re: Gilpin Construction Company, Sensitization Tests, marked DEFENDANTS' IDENTIFICATION 1937.)

Mr. Marcus: I might state, your Honor, with one reservation the Government, in the presentation of its case, will expect to conclude with its witnesses this coming Tuesday.

Subject to the approval of your Honor, Mr. Jaure-
895 guy and I are in agreement that we would like to come back, after we put in our case, on December 13th. That is a Tuesday, I believe.

The Court: We will discuss that later. Thank you for bringing it up now.

WALTER J. PAGE, a witness on behalf of Plaintiff, thereupon resumed the stand and was examined and testified further as follows:

Cross Examination (Continued)

By Mr. Jaureguy:

Q. Mr. Page, I would like to hand you a letter dated January 17, 1930, a rather old letter, which has been marked Defendants' Pre-Trial No. 2501 and ask you particularly to notice the next to the last sentence which reads:

"You, of course, understand that no operation is to be performed at the expense of the Association without permission is first obtained from us."

That was not signed by you but by Mr. Bechtold? A. I wouldn't know much about 1930, Mr. Jaureguy.

Q. I merely want to ask you whether that has continued to be the policy of the Association. A. That letter merely indicates the same as I indicated yesterday.

896 Q. And what is that? A. "You, of course, understand that no operation is to be performed at the expense of the Association—"

Q. Without prior authorization? A. Yes. Well, it is not the matter—I believe I tried to explain that yesterday. It is to be able to tell him if we are responsible for it.

Q. In other words, in cases where the doctor is charging his patient and not you, then you do not try to tell him whether to operate or when, but if he intends to charge you for it, then you want him to get prior authorization? A. No, that is not the policy of the Association, at least since I have been there.

Q. When, then, do you require authorization in advance? A. We do not require any authorization at the present time. There may have been—of course, it is a long time ago. That letter indicates that there was required authorization but it says "at the expense of the Association." It does not say that we require a doctor to wait, nor do I think any doctor would wait, if it were required.

(Defendant's Pre-Trial Exhibit No. 2501 is as
897 follows:)

"National Hospital Association
Home Offices Top Floor Mohawk Building
Portland, Oregon

January 17, 1930

"Dr. L. D. Inskeep
Medford, Oregon

"Dear Doctor:

"As you likely have been informed, the California-Oregon Power Company has entered into a contract with the National Hospital Association effective January 1st, extending National service to the employes of the Operating Department. It is our understanding that this will include the several divisions of the Operating Department, excepting certain employes who have elected not to accept the service. The plan accepted is the Full Coverage Plan.

"As you may recall, the Association adopted the Full Coverage Plan the first of last May, since that time it is being generally accepted in preference to the former Standard Plan. However, there is some question arising as to our being able to continue under the Full Coverage Plan at the small increase in rate of Fifty Cents per month, and there is also a question if we will be able to increase this rate. Therefore, if we are to continue under the plan it is necessary that we have the fullest cooperation of our doctors, to the end that we are not called on to treat cases that are
898 not properly ours, and also that unnecessary hospital cases and other expenses be avoided. You of course understand that no operation is to be performed at the expense of the Association without permission is first obtained from us. Further, any case in which there can be any question as to this Association's liability must be reported to us before any extended treatment can be furnished at our expense.

"Yours very truly,

NATIONAL HOSPITAL ASSOCIATION

C. C. Bechtold
General Manager

CCB J

Q. Then I show you Defendants' Pre-Trial Exhibit 2571. This was written by you. In this letter you say:

"We note in our file in connection with the case of C. E. Snyder that this patient was admitted to the Sacred Heart Hospital and X-rays of the gastrointestinal tract ordered.

We do not find that authority was granted for this work and consequently call it to your attention, asking that you advise us of the necessity for the extensive examination and why it was not called to our attention for authority."

Mr. Marcus: Let the record show that there is a
899 continuing objection to this line of questioning.

The Court: Why? On what ground?

Mr. Marcus: Irrelevance, your Honor.

The Court: What do you mean, irrelevance?

Mr. Marcus: As I have tried to state before, your Honor, it is our position that no matter what these associations did, presuming that they did what Mr. Jaureguy is trying to show, as long as these defendants conspired to do what we are charging them with having done, it does not matter what those hospital associations did. That is why we take the position that this material is irrelevant, as long as the intent and purpose of these defendants was to drive these hospital associations out of business.

This kind of evidence is merely to show, at the most, that the Association got in touch with a doctor, for instance, before they performed services, in order to make sure, if they were to pay, and it is our position that all of that sort of material is irrelevant to the basic issue in this case as to whether the defendants conspired to do what we have charged them with doing.

The Court: You mean you can't show that defendants charged with conspiracy tried to stop them from that practice?

Mr. Marcus: Not if what they did, in order to stop those practices, was with the aim, either with express intent or with the necessary consequences, of driving these
900 associations out of business.

Your Honor, in that connection I might suggest this: I have not seen the type of exhibits the defendants intend to offer, with the exception of just these few here, but I presume there is quite a bit of that stuff that they will want to offer.

Mr. Jaureguy: Lots of it, yes.

Mr. Marcus: I would like to suggest this, that when we reconvene we devote an hour or so to argument, at which

time I would like to bring your Honor's attention to various authorities in the field. I could argue now, but I am definitely not as well prepared as I would hope to be, and it is a matter of considerable consequence. I am not too much concerned now with the present cross examination, but I am definitely concerned with respect to the defendants trying to use this material in justification for what they have done.

The Court: I am going to go you one better. I have had my mind made up for several days that at the end of your testimony, which you now say will be on Tuesday, I will expect you to sum up what you think you have shown and also to state your legal theory.

Mr. Marcus: I will be prepared to do that, but I am talking just now with respect to what the defendants may offer.

The Court: All right.

The Witness: It is a long time.

Mr. Jaureguy:

Q. Yes, that is quite a while ago, in 1932. That is
901 your signature? A. Yes, that is mine.

Q. I am handing you these various documents that bear what purports to be your signature. If you find one that has not your signature on it, let us know. A. I will.

Q. So, at that time, it was necessary before a doctor took X-rays or made an X-ray examination of the gastrointestinal tract, if he expected you to pay for it, to obtain authority from you? A. I don't think we ever turned down —I don't think we ever turned down a bill for that reason. You brought one up yesterday, which was paid.

Q. Nevertheless, that was one of your regulations, that that be done? A. Well, I wouldn't say that, Mr. Jaureguy.

The Court: Suppose the man died while the doctor was arguing with you about obtaining authority. How would you feel about that?

A. We haven't turned down a bill for that reason that I know of.

The Court: That wasn't my question, whether you turned down a bill. Suppose he died while he was arguing with you about getting a doctor?

A. Well, I don't know.

The Court: What?

A. I don't know how we could stop that, but my point
902 is that I don't believe the doctor would wait.

Mr. Jaureguy: I have another one written by you, this one in 1936, to a different doctor, Dr. Pitman in Hillsboro, in which you enclose your check for care given to two men, and in the first paragraph you say: "While the operation in the case of Harry Williams was not authorized, we are advised that it was successful, and the account is being paid.

"In both of these cases for which payment is being made services were rendered without authority from the Association. From a letter we received from you some time ago it would seem that it is your intention to ignore the regulations of the Association, and we feel you do not have a proper understanding of our requirements."

I have not read all the letter, but I am calling that to your attention. A. That is my signature.

Q. I want to say that this is Pre-Trial Exhibit 2567, a part of Pre-Trial Exhibit 2567, being the third to the last letter, dated September 25, 1936.

The Court: We do not have numbers that high, do we?

Mr. Jaureguy: The Reporters left a big gap in order to put in the defendants' pre-trial numbers.

A. This is the same man that was brought up yesterday.

Mr. Jaureguy:

Q. The same man that was brought up yesterday?
903 A. The bill that I explained was paid.

Q. Oh, yes. You mean the same doctor? A. No, the same man.

Q. The same patient? A. Yes, the same patient, the same member. The bills were paid, though.

Q. I get the impression from your letter the reason you were willing to pay the bill here was that the operation was successful. Is that correct? A. That would seem to indicate that. However, it is rather amusing.

Q. It is not amusing to me, I can assure you. A. Well,—

Q. I don't think it was amusing to Dr. Pitman. A. The idea of a bill being paid because the operation was successful, it is not—

Q. Does not make sense? A. Does not make a very reasonable situation.

The Court: Where is Dr. Pitman?

Mr. Jaureguy: Hillsboro.

A. Hillsboro.

Mr. Jaureguy: I might add that Dr. Pitman is one of those listed by the Government in their More Definite Statement as a doctor who was harassed and coerced, and a lot of other things, so he has not been able to practice medicine in the manner in which he would like.

904 Mr. Marcus: As long as Mr. Jaureguy has brought up that matter, I will say that before we rest we will have an amendment to file, admitting that we did include a lot of doctors there where we had intended to include those as those who refused tickets.

Mr. Jaureguy:

Q. I want to call your attention to the second sheet of Exhibit 2505, Defendants' Pre-Trial Exhibit 2505. This does not seem to be your handwriting, but your name is typed and somebody signed your name:

"In checking back our records we find that this man was under your care and had an X-ray at the Sacred Heart Hospital. We do not, however have any record of a report from you showing that it was necessary for the man to have a full X-ray and treatment of his teeth, nor do we find where we authorized such service.

"Will you kindly give us a complete report on the case in order that we may consider the account presented by Dr. Lageson." A. That is not my signature. However, I think I dictated the letter. X-rays of teeth, of course, would be not emergency treatment and for us to determine whether we would pay for it certain information is required.

Q. Then I want to show you another letter, Defendants' Pre-Trial Exhibit 2608, where the doctor ordered some belts. The last paragraph says:

905 "Will you kindly advise us relative to each case being particular to state whether the belts were ordered for permanent use or for treatment and to be worn temporarily only. May we ask that in the future you request authority for appliances before ordering the same."

Was that your policy, to require them to get authority? A. As is stated here, appliances are paid for for treatment but not for permanent use. Therefore, to determine whether we would pay for it or not, we have to know what it is.

Q. Therefore, you wanted the doctors to get authority from you before ordering appliances? A. No, not necessarily.

Q. You did not mean that? A. We want to know whether we are going to pay for it. The doctor is the one to determine whether it would be for permanent use or for treatment. If for permanent use, no; if for treatment, yes, we pay.

(Defendants' Pre-Trial Exhibit No. 2508 is as follows:)

"National Hospital Association
Home Offices Top Floor Mohawk Building
Portland, Oregon

July 18, 1932.

906 "Dr. L. Dow Inskeep,
Medford, Oregon.

"Dear Doctor:

"We have just received three statements from Lamport's for belts furnished F. I. Witham on February 25th, Carl J. Rasmussen on April 23rd and Wesley J. Smith on April 18th. The statements presented by Lamport's have been approved by you.

"We have checked our records on these cases but do not find where we granted you authority to furnish the patients with belts. The Association's contracts provide for appliances under certain conditions and it has not been our practice to pay for the same unless we have an opportunity of determining our responsibility before authority is granted.

"Will you kindly advise us relative to each case being particular to state whether the belts were ordered for permanent use or if for treatment and to be worn temporarily only. May we ask that in the future you request authority for appliances before ordering the same.

"Yours very truly

NATIONAL HOSPITAL ASSOCIATION

W. J. Page
Office Manager.

"WJP/Mc

(In rubber stamp: L. D. Inskeep, M. D. Medford,
907 Oregon)"

Mr. Jaureguy:

Q. Then I will show you Defendants' Pre-Trial 2569, in which there was an appendectomy performed, in which you say:

"As these cases are usually reported to us and authority obtained before an operation is performed, we would appreciate full information from you regarding this case."

That is what you advised? A. Yes. I did not sign this, but I dictated it. It is the same thing.

Q. The same thing? A. Before we pay for it, we want to know it is ours.

(Defendants' Pre-Trial Exhibit 2569 is as follows:)

"National Hospital Association
Home Offices Top Floor Mohawk Building
Portland, Oregon

September 22, 1934.

"Dr. L. Dow Inskeep,
Medford, Oregon.

"Dear Doctor:

"We have received a statement from the Sacred Heart Hospital to the effect that Harold McFarland, an employe Milne Construction Company, was admitted September 3rd for an appendectomy which you performed. Our
908 records do not indicate that you have reported this case nor do we find that the operation was authorized.

"As these cases are usually reported to us and authority obtained before an operation is performed, we would appreciate full information from you regarding this case.

"Yours very truly,

NATIONAL HOSPITAL ASSOCIATION.

W. J. Page
Service Manager.

"WJP Mc"

Mr. Jaureguy:

Q. Here is Defendants' Identification No. 1937, involving the situation where doctors in Astoria gave some skin

sensitization tests and you say "We do not find that these tests were authorized. However, this account is being approved for payment.

"In the future in order to avoid misunderstandings we request that cases of this kind be reported and authority obtained before the service is rendered."

So, you required that for skin sensitization tests? A. Skin sensitization tests may be made in prevention as well as treatment. The contracts do not include prevention.

Q. So you wanted authority? A. So we wanted to know whether-which way it goes, because we were paying
909 it on one side and on the other side we did not.

(Defendants' Identification No. 1937 is as follows:)

"National Hospital Association
Mohawk Building, 716 s. w. Third Avenue
Portland, Oregon,

April 24, 1937

"Drs. Straumfjord & Cone
Astoria, Oregon

"Dear Doctors:

"Included with March bills we find a statement for care of Bert Cardson, an employe of the Gilpin Construction Company, who was given skin sensitization tests. We do not find that these tests were authorized. However, this account is being approved for payment.

"In the future in order to avoid misunderstandings we request that cases of this kind be reported and authority obtained before the service is rendered.

"Very truly yours,

NATIONAL HOSPITAL ASSOCIATION.

W. J. Page
Service Manager

"WJP/mk"

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910 Mr. Jaureguy:

Q. Then here is another one, signed by you, in which you state:

"It is noted that this patient was treated eight times during the month of March and since it is our understand-

ing that the only treatment he received is insulin shots we are wondering about the necessity for so much care, as we think the patient could use the insulin himself." A. That might be.

Q. What is that?

The Court: What is the last sentence?

Mr. Jaureguy: "We are wondering about the necessity for so much care."

The Court: No, about the patient to do what?

Mr. Jaureguy: "—as we think the patient could use the insulin himself."

The Court: Give himself a shot with insulin?

Mr. Jaureguy: That is what it says. I will assume that is what he means.

Q. You wanted the doctor to explain to you why he gave the shots instead of the patient giving the shots to himself, and then you go on to say: "It runs into quite a lot of expense and that is why we are calling it to your attention," or something like that. A. You did not read the last paragraph or the next to the last paragraph.

911 Q. Read it, will you? A. "The Association of course wants this man to have the treatment that he requires for the condition, but in furnishing insulin for him and paying for its administration it makes quite an expensive case for us particularly since he will require treatment over a long period. We would appreciate a report from you as to the necessity of the treatment over a long period."

Mr. Jaureguy:

Q. You are not counting the first eight shots mentioned in the second paragraph, the shots that the doctor gave him? A. It wouldn't make any difference. The treatment is what we want to know about, over how long a period the treatment will be required. We would pay for it if it is necessary.

Q. Here is another one signed by you, part of Defendants' Pre-Trial Exhibit 2509, in which you state you received a bill from the Sacred Heart Hospital for X-rays, barium meal, and you say:

"We do not find where we received a report from you on the case nor have we authorized the special X-ray examination.

"Will you kindly furnish us with a complete report on Mr. White's case." A. If we pay it, we want to know if it is our case.

Q. The regulations are that the doctor reports and gets authorization in advance? A. Well, if he wants to
912 know definitely that we will pay for it later.

(The second sheet of Defendants' Pre-Trial Exhibit 2509 is as follows:)

"National Hospital Association
Home Offices Top Floor Mohawk Building
Portland, Oregon,

November 17, 1932.

"Dr. L. Dow Inskeep,
Medford, Oregon.

"Dear Doctor:

"We today received a bill from the Sacred Heart Hospital for (x-rays) barium meal in the case of Ernest White, an employe of the Timber Products Company.

"We do not find where we received a report from you on the case nor have we authorized the special x-ray examination.

"Will you kindly furnish us with a complete report on Mr. White's case.

"Yours very truly,

NATIONAL HOSPITAL ASSOCIATION

W. J. Page
Office Manager.

"WJP/Mc
"(in pencil notation:

'Oct 30-1931
Nov. 5-1931
Nov. 21-1931')"

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913 Q. It is also a fact, isn't it, that you—your company, I will say— advise the doctors, if there is any question about it, advise that they hold the patient personally responsible and bill him at least for the fees he may be responsible for. A. It would be until we know it is ours.

Q. In other words, a patient goes to a doctor and often the ticket does not give sufficient information—I apolgize, Mr.

Page. I thought you were through. A. I am through with it now.

Q. What I am trying to get at is that sometimes the ticket itself was not sufficient to assure the doctor that the patient was under the National Hospital Association coverage. A. Well, I think sometimes the ticket would not give him proper information, would not give the doctor proper information, or sufficient information to judge whether he would be entitled to treatment for a certain condition or not.

Q. Very often you suggest to the doctors that they advise the patient that they are holding the patient personally responsible because they do not know whether they are covered. A. They may do that, yes. In some cases I think they would.

914 Q. Then here is Defendants' Exhibit for Identification 1936, in which you call attention to prescriptions that he wrote, and it says: "These prescriptions were written by you and since we have had no report from you on this case and the number of prescriptions is unusual, we would appreciate very much if you could furnish us the complete information on this case." You wanted the complete information so you could know whether the doctor used good judgment in giving the prescriptions? A. No. I would say from your reading of it that we wanted to know whether we should pay for the prescriptions or not.

Q. Oh. Well, if the doctor didn't use good judgment in the number of prescriptions he gave, why, then you wouldn't pay for them? A. Well, we had—if I may read this, Mr. Jaureguy. We received a statement from the Dayton Drug, Astoria, covering forty prescriptions, and not having received a report from the doctor we were unable to approve that drug bill. We said we didn't know whether it was ours or not.

Q. You said that because the number was unusual? A. That is right. The number is unusual, very unusual.

Q. Now, I would like to call your attention to Defendants' Exhibit for Identification 1935 to Dr. Straumfjord in Astoria:

"We recently received statements from you for care of a total of forty-two patients, employees of various companies in the Astoria district. In checking over
915 these statements which are for care of patients for various medical conditions we find that out of the forty-two patients who consulted you charges were made for complete examinations in twenty of these cases, and

in fourteen of them an additional charge of $2.00 was made for routine office laboratory work.

"Considering the total number of patients who consulted you the number requiring special examinations seems to be entirely out of proportion. We appreciate that some of the cases require more extensive work than others, and therefore in the past have paid a $3.00 fee for the first call where complete examination including office routine laboratory is necessary, but the ordinary case, as you know, involves only a charge of $2.00 for first office call. These accounts are being paid as rendered with the exception of the additional charges for routine office laboratory which we consider as included in the examination fee, but we call it to your attention as we believe you will agree that the number of cases for which complete examinations were done is out of proportion."

Then, you add: "This letter is not written in the spirit of criticism of your work as our relations with you have been very friendly, and we hope to continue—but we believe you can also appreciate the Association's position in this regard."

Now, when you have the first two paragraphs reread to you, do you still think it is not in a spirit of
916 criticism against the doctor for giving a $3.00 deluxe examination instead of the $2.00 examination? A. Well, I can only say what the letter says, Mr. Jaureguy.

Q. You don't remember the case? A. No. That is '37; I wouldn't remember.

Q. I take it, then, you were not advised— A. The reason of that—of course, it is an old letter.

Q. That is, you have 20 out of 44, or whatever it is—he had 42 cases, and in 20 of them he gave the $3.00 examination instead of the $2.00 examination. A. You are quoting $3.00. A special examination, it says.

Q. Well, that was $3.00, wasn't it? A. Well, at that time. At that time. But that is in '37.

Q. Did you know before that the doctors down there, Straumfjord and Boyden, I think they were, on account of this and many other letters wrote to Dr. Sabin? A. No.

Q. And told him they just didn't like it? A. No, I didn't know that, no. Dr. Sabin was president, however. I assume it would have been called to my attention, but I don't recall it.

Q. No, it was called to Mr. Bechtold's attention, and

Mr. Bechtold wrote a nice long letter here that is attached to it.

917 Mr. Jaureguy: That will be all.

Redirect Examination

By Mr. Marcus:

Q. Mr. Page, on direct examination you stated that before you went to the National you were with the State Industrial Accident Commission. A. That is right.

Q. Now, did this question of authority come up while you were there? A. Well, the Oregon State Compensation Law provides for it.

Q. Provides for getting authority? A. That is right.

Q. Have you ever heard of groups of doctors in Oregon boycotting the Commission because of that requirement?

A. No, I don't think so.

Mr. Marcus: Now your Honor, quite a bit of the fog we have had outside here has crept into the courtroom this morning, and I would like to try to dispel some of it by reading from Pre-Trial Exhibit 335, which is an item appearing in the Northwest Medicine in August, 1936. It is under the heading "The Schedule Versus Reasonable Fee."

"Take a situation where an employee is injured while at work and a physician is called. The physician arrives, and finds the employee lying in the restroom or some other place. The owner, manager or foreman is present. In Oregon, the patient is usually under the Workmen's
918 Compensation Act, or some incorporated hospital association is obligated to render medical care to the patient, or some private insurance company has a contract with the employer to reimburse him for medical and other disability benefits.

"If nothing is said about who will be responsible for the physician's services, it may be that:

"1. The employee is alone responsible, for a reasonable fee, or

"2. The employer is responsible, because of neglect of some legal duty, or,

"3. The Industrial Accident Commission is responsible, probably on its fee schedule, or

"4. The hospital association or insurance company is liable, and their liability is usually limited by the contract or insurance policy which they have agreed to.

"After the patient is past immediate danger, it behooves the physician to definitely ascertain who is to be responsible for his services. This becomes especially important, where a long and complicated course of treatment appears necessary, involving services of specialists, special nursing, etc. For if the physician goes ahead on his own initiative to employ such added services, he may be held personally liable for the costs.

"If the physician goes ahead and renders services without an agreement as to who is to be liable, the chances are that after he submits his bill to the patient he
919 will receive a letter from some insurance company or other agency, stating that he will only be paid on a certain fee schedule.

"Unless the physician is to be bound by some fee schedule, the thing for him to do after the patient is out of immediate danger is to get a definite agreement from the patient, the employer, the insurance adjuster or some other responsible party that the services be rendered on the basis of a reasonable fee at the cost of said responsible party. This procedure is only fair to the patient, the physician and others interested. It will save much discussion and complications later."

Mr. Jaureguy: May I ask whether that was written by one of the defendants in this case?

Mr. Marcus: It certainly was.

Mr. Jaureguy: Yes.

Mr. Marcus: We charge that this is published in the Northwest Medicine. That is all, Mr. Page.

Mr. Jaureguy: It is part of the conspiracy.

(Witness Excused.)

Mr. Marcus: I would like at this time, your Honor, to offer in evidence some of the documents turned over to us by the defendants yesterday with respect to disciplinary proceedings, which I have already had marked for identification. Those numbers are 1901 to 1934.

920 The Court: Admitted on the same terms.

(The file of documents above-referred to, in re disciplinary proceedings, was thereupon received in evidence as PLAINTIFF'S EXHIBIT 1901 to 1934 inclusive.)

921 CHARLES WIGLE was thereupon produced as a witness in behalf of the Plaintiff and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Cohen:

Q. Mr. Wigle, with what company are you associated? A. Central Willamette Lumber Company.

Q. Where is it located? A. Philomath, Oregon.

Q. Philomath, Oregon, is in what county? A. Benton.

Q. Benton County. What is your position? A. Manager.

Q. How long have you had this position? A. Going on six years.

Q. How long have you been with the company? A. All that time.

Q. Does this company send lumber all over the country? A. All over the United States, practically.

Q. Mr. Wigle, are the employees of the Central Willamette Lumber Company covered by any prepaid medical care plan? A. OPS.

Q. How long have they been with the OPS? A.

922 About two and a half years.

Q. Were the men covered by any prepaid medical care plan prior to the OPS coverage? A. Yes, Prudential.

Q. While with Prudential was any trouble had with respect to doctors refusing to accept Prudential tickets? A. Yes.

Q. Would you say that this condition was true generally in the Willamette Valley?

Mr. Jaureguy: I object to that as just covering a little too much territory to be anything but hearsay.

The Court: Answer.

A. It was general as far as our men were concerned.

Mr. Cohen:

Q. Will you tell the Court, please, why the change was made from Prudential to OPS. A. Because so many doctors wouldn't take Prudential tickets.

Q. Do you know the names of any of those doctors? A. No.

Mr. Cohen: That is all.

Cross Examination

By Mr. Jaureguy:

Q. You made the change, you say, because many doctors were not taking Prudential tickets? A. Beg pardon?

Q. Because many doctors wouldn't take Pruden-
923 tial tickets? A. They wouldn't take them.

Q. That is what I say, and that is the reason the change was made? A. Yes, that is right.

Q. Those doctors that didn't take tickets, what did they do? A. They charged it to the man, and the man sent a bill into the Prudential and collected his money.

Q. Were there any cases where the men had difficulty in collecting money? A. Well, yes, but I don't remember any particular one.

Q. The difficulty arose out of what fact, do you know? A. Oh, I couldn't say that for sure. They would say—they would come and tell me that he turned in one for $3.00 and collected $2.50.

Q. Things of that kind arose? A. Yes.

Q. That is an illustration. In cases where it was found that the man was not covered, or the particular illness or ailment or accident was not covered, therefore, they refused to pay? A. It wasn't covered?

Q. Yes. Do you remember any cases of that type? A. No.

Q. How has the OPS service been? Has it been satisfactory? A. Satisfactory.

924 Mr. Jaureguy: That is all. Thank you.

(Witness Excused.)

Paul Youngman was thereupon produced as a witness in behalf of the Plaintiff and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Youngman, where do you reside? A. Near McMinnville?

Q. About how large a community is McMinnville? A. Well, it is approximately six thousand population in the city, and it is pretty thickly populated around in the rural areas there.

Q. Is that farming county? A. Yes, sir.

Q. Now, I call your attention to the fall of 1946. Did a group of citizens with whom you were associated conceive the idea of having a cooperative health organization in that area? A. The County Grange appointed a committee to investigate the feasibility of such a plan, and the local farmers' union likewise about the same time appointed a committee. The master of the County
925 Grange, the Pomona Grange, came to our place and told me that I had been placed on a committee for that purpose.

Q. Could you tell us what initial steps were taken to carry out this plan? A. Well, those steps took two forms; One, to actually ascertain the need for more facilities in that community for providing care.

The Court: Is there something about this in the complaint? What he is talking about, is there something about that in the pleadings?

Mr. Jaureguy: I don't think so.

Mr. Marcus: We have alleged that the conspiracy was state-wide.

The Court: I just asked—

Mr. Marcus: No, not the specific instance, no.

The Court: Have you heard about this?

Mr. Jaureguy: Well, I will have to admit that I know or I have heard a little about it. I don't think that McMinnville is mentioned in the pleadings.

The Court: There is nothing in the bill of particulars about it?

Mr. Jaureguy: No, nothing in the bill of particulars.

Mr. Marcus: Go ahead.

A. We wanted to ascertain the need, and then another part of the survey, you might call it, was to ascertain
926 whether or not if we did set up a cooperative health association that we could get a doctor or doctors to serve us, and that was an important part of the preliminary steps. And people expressed themselves as generally having confidence in a certain doctor there.

Q. What was his name? A. His name was Dr. Heringer.

Q. How is that spelled? A. (Spelling) H-e-r-i-n-g-e-r. Dr. Heringer was approached on the subject, and at first he mentioned to us that we should consider OPS, but we felt that OPS had not done enough for the families, and we were more interested in a type of service that would afford more preventive medical care for our families and for our-

selves. So we asked him about serving on a so-called community clinic on a cooperative basis owned by members who would receive the benefits of that association. And in order to gather more information on it, Dr. Heringer went with some of us to Seattle to look over the group health cooperative of Puget Sound, and there he visited with some of the doctors there and looked over their hospital, and then after—on our return he mentioned that that looked like a good way to carry on the practice of medicine to him, and he was enough interested in it that we did go to an architect there in Seattle, to whom we were referred by the doctors in the cooperative there, and this architect made up
927 a set of plans for a hospital and sent them to Dr. Heringer later in McMinnville.

Q. What other steps did you take to become acquainted with the problems involved in carrying on such plan? A. Well, there were several sources of information for that. In the Mid-West, in Kansas, Oklahoma, Texas and Minnesota, Wisconsin, I believe, and I believe also in St. Louis, and I believe in the District of Columbia, in Washington, D. C., there are groups and we had information from them on how their organizations were set up. The Group Health Federation of America, with headquarters in Minnesota, sent up material. We had correspondence with a Dr. Shadid of Elk City, Oklahoma, and he advised us in some detail as to our relationships that we could expect to have with the doctors and which ones would work out the best.

928 Mr. Marcus:

Q. Now, after you came back with the doctor from Seattle did your group subsequently have occasion to meet with Dr. Heringer again? A. Yes, sir.

Q. And what occurred at that meeting? A. Well, on one of those—had several meetings with them—but on the last meeting with them he told us—

Mr. Jauregui: Just a moment. I will object to that as hearsay.

The Court: Read the question.

(Last question and answer read.)

The Court: Overruled.

A. He told us that he would be unable to serve our group and explained—

The Court: When was this, what year?

A. This was in 1947—and explained that his relations with the other doctors would be strained to the point that he did not feel that he should make the sacrifice, and he held up an invitation to an alumni banquet, and he said, "I wouldn't get these if I worked for you fellows."

Mr. Marcus:

Q. Now, after that happened did your group attempt to interest other doctors in cooperating with this plan? A. Yes, sir, because we knew that we couldn't carry on a health plan without proper medical services, and we approached the Northern Permanente doctors, and they even came down and looked over the hospital that we
929 had in mind purchasing and the clinic that we were negotiating for.

Q. Now, did that group you were associated with for the purpose of forming and carrying out a cooperative group health organization have a name? A. Yes, sir. It was the West Willamette Group Health Association.

Mr. Marcus: I would like to have this marked for identification.

(Photostat of circular distributed by West Willamette Group Health, Inc., so produced, was thereupon marked for identification PLAINTIFF'S EXHIBIT No. 1938.)

Mr. Jaureguy: I want to read this through before I cross examine. I can do it now or later.

The Court: Later.

Mr. Marcus:

Q. I show you Exhibit 1938 marked for identification and ask whether this is a circular put out by the West Willamette Group Health, Inc., stating its purposes and aims? A. Yes, sir.

Mr. Marcus: I offer that in evidence.

The Court: Entered on the same terms.

(PLAINTIFF'S EXHIBIT No. 1938, previously marked for Identification, was received in evidence.)

Mr. Marcus:

Q. Now, Mr. Youngman, in this 1947 period did
930 your group undertake to try to acquire a hospital at McMinnville? A. Yes, sir, we did. One that we approached, a doctor who had the major block of shares

in one of the local hospitals and who also operated the McMinnville Clinic—

The Court: What is his name?

A. Dr. Huckleberry—and he signified willingness to sell his interest in the hospital.

Mr. Marcus: May I have this marked for identification.

(Photostat of letter dated January 31, 1848, by Dr. Huckleberry to Mr. Paul Youngman, so produced, was thereupon marked for Identification PLAINTIFF'S EXHIBIT No. 1939.)

Mr. Jaureguy: This, also, I would like to read before cross-examining, but I can delay.

Mr. Marcus:

Q. I show you Exhibit 1939 marked for identification and ask whether this is a letter from Dr. Huckleberry indicating his willingness to sell his interest in the hospital? A. Yes, sir, it is.

Q. Now, could you tell me with respect to this plan whether it was contemplated that the plan would cover illnesses of members suffered while outside the State of Oregon? A. Eventually we hoped to have that provision in the contracts with our members, yes.

Q. Now, did your plans go so far as incorporating
931 the association? A. Our a Horney filed Articles of Incorporation and the fees were paid.

The Court: Who was your lawyer?

A. Mr. Elliott Cummins.

Mr. Marcus:

Q. Now, did your group make an effort to acquire funds from the various people in that community for this purpose? A. Yes. Dr. Huckleberry told us that we could take an option on this hospital and the clinic for $1,000 and that we would have several months in which to go ahead and raise the other funds necessary to go ahead.

Q. And did you have occasion at about this time to hold a public meeting for the purpose of discussing the project and raising funds? A. Yes. We did hold a meeting to give the people a chance to come in and to help us with this plan, whoever wanted to, and at this meeting—

Q. Well, let me—well, go ahead and tell— A. At this meeting we did raise the amount of money necessary to take the option on this hospital.

The Court: I didn't get that amount of money. How much?

A. $1,000.

The Court: How much?

A. $1,000.

The Court: Oh, I see, your first payment.

932 A. Just take the option.

The Court: Your option money, yes.

Mr. Marcus:

Q. Did any unusual incident occur at that meeting which came to your attention? A. Well, yes. Prior, just the day before the meeting, both Dr. Huckleberry and Dr. Heringer told us that it was a likelihood that the doctors would appear at this meeting in opposition to our plan. They told us that a meeting had been held—

Mr. Jaureguy: I am going to object to this as hearsay, your Honor.

The Court: Continue.

A. The doctors told us that a meeting had been held with the, between the Yamhill County Medical Society officers and the Executive Council of the State Society on the Saturday evening prior to our meeting, and that it was pre-arranged that they should meet in McMinnville the evening of our meeting and then that they would come out to our meeting in a body, and so I called the President of the Yamhill County Medical Society.

The Court: Who was that?

A. Dr. Weldon Ross. And he said on the phone that he was just looking up my telephone number to call me, and he said he understood we were having this meeting and would it be all right with our group if they brought a representative of OPS out to talk to us. And I told him that I didn't believe that he would be very well received. I suggested that they not do it and that—I told him

933 that we would give him a report of the meeting at a later time, we would give the doctors a report of

the meeting. And I also called another doctor with whom we had discussed this, and he said, "I believe your wishes will be respected," and they did not come in a body. The County Health Officer, Dr. Stolte, with whom we were on very good terms, did appear. He gave us the impression that somebody had requested him—

Mr. Jaureguy: I want to object to that as hearsay.
The Court: Overruled.

A. —and he furnished us some information for which we were appreciative, and that is that the hospital, the National Hospital Act, showed that that area was entitled to twenty more beds, and we were appreciative of that because if we acquired the hospital we hoped to enlarge it enough to make it truly a community hospital and serve the other doctors in the community, and that twenty beds would have been of material advantage there.

Dr. Stolte made that report and he and Mrs. Stolte then excused themselves and left and our meeting continued.

In that group there was a young lady who was strange to us and she took shorthand notes continously through the meeting, and at the end of the meeting I asked the people there, I said, "It looks to me like we have a representative"—

Mr. Jaureguy: I object to that as hearsay.
The Court: Continue.

934 A. —"of the doctors, the County Society here. What is the will of the people, of this group of people?" And the young lady spoke up and said, "I am a college student taking these notes as part of my work on a thesis." And with that we passed it off, but we later had information that she was sent there by the doctors.

Mr. Jaureguy: Just a moment. I object to that as hearsay.
The Court: Overruled.

A. We later had information that she was sent there by the doctors to take notes on it, despite the fact that a reporter from one of the local papers was there at our invitation and did subsequently write an article almost a column long in their newspaper on, giving the proceedings, at this meeting.

The Court: Did he write a good piece?

A. She was friendly to our efforts.

The Court: An editorial. How large a meeting was this, how many people did you have at your meeting?

A. Approximately fifty.

Mr. Marcus:

Q. And were you successful in raising that $1,000? A. Yes, sir.

Q. Now, you have mentioned that you told the President or the Yamhill County Medical Society that a report would be presented to the doctors. What occurred in that connection? A. Well, we arranged with them, our committee, to meet with them at their regular meeting approximately a month later. They had had a dinner and some movies and a speaker, and then they invited us in and we presented our plan.

935

The Court: You haven't named the Yamhill County Medical Society as a defendant.

Mr. Marcus: No, your Honor, not as a defendant. We have alleged that the conspiracy was statewide, and, if your Honor recalls, in my opening statement I did say there were a number of other county medical societies and affiliated prepaid medical care plans, but they were not defendants.

Mr. Jaureguy: Not only the Society is not named, but there is not a resident of Yamhill County named as a defendant.

The Court: Well, he ought to be glad of that. Recess.

(Short recess.)

Mr. Marcus:

Q. You were in the process of telling us about the matter of the meeting of your group with the Yamhill County Medical Society. Would you continue?

A. We explained to them our plan. We explained that we hoped to include the preventive medical angle more than these other plans did, and that we hoped to use as large a group of doctors as we could.

Mr. Jaureguy: I want to object to all of this as hearsay.

The Court: Overruled.

A. And that one phase of the plan would be the prepayment and that another phase would be spreading the costs out over a large group of people.

955 FRANCES B. YEXLEY was thereupon produced as a witness in behalf of the Plaintiff and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mrs. Yexley, what is your occupation? A. I am cost accountant, pay roll department, for Columbia River Packers.

Q. What company did you say? A. Columbia River Packers.

Q. What is the nature of the business of that company? A. They are packers of salmon, crab and tuna.

Q. Where do they have their offices? A. Their main office is at the foot of 6th Street and the cannery is at the foot of Flavel.

Q. Do they have any plants or operations in the State of Washington? A. Yes, sir, they have a cannery at Bellingham also, and they have receiving stations in Washington.

Q. Are the employees of that company covered by prepaid medical care insurance? A. Yes, sir.

Q. Would that be true of the plant in Washington? A. I don't know if they have any at Bellingham. There is a small receiving station—it used to be a cannery—

956 at Altuna, and the greatest number of their residents are under prepaid medical insurance.

Q. Now, about how many employees does that company have? A. All their plants or—

Q. Well, taking the Astoria operation and that Altuna operation. A. Oh, I would say approximately 400 or 450 at the peak of the season. That varies quite a bit.

Q. Are the majority of those covered by prepaid medical care insurance? A. The big percentage of them are.

Mr. Jaureguy: I didn't get what percentage.

A. A large percentage.

Mr. Marcus:

Q. Under what organization are most of the members covered by prepaid medical care insurance at the present time? A. The greatest number are OPS.

Q. Is that through group contract? A. Yes.

Q. Are there others who are covered by some other prepaid medical organization? A. Yes.